SECRET.

File No. 132/52.

1952.

Collection No.

PRESIDENT'S SECRETARIAT
(GENERAL BRANCH I)

Office of the Secretary
to the President.

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Pros. Serial Nos.

राष्ट्रीय अभिलेखागार
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NATIONAL ARCHIVES OF INDIA

Subject.

KASHMIR AFFAIRS.

30-6-04

Previous References.	Later References.
	F.69/53

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S. 97 (Unbleached).
LC&S—O.P. 22—(MFP 8862/A/OP/987/Civ-II—9-3-50)—(C/153/50—P. J./MFP—8-5-50)—20,00,000.

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(2)

19th June 1952

My dear Jawaharlalji,

I understand that you are going to have a discussion with the Ministers of Kashmir who have come. I have been giving some thought to the relevant documents and have made the following note which I am forwarding to you for your consideration when dealing with the subject.

Yours sincerely,

RP

Shri Jawaharlal Nehru,
Prime Minister.

Copies of the note sent to:-
(1) Shri N. Gopalaswami Aiyangar
(2) Maulana Abul Kalam Azad
(3) Dr K.N. Katju
on 20/6/1952.

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(3)

In view of the fact that the Constituent Assembly that has been meeting in Jammu & Kashmir has decided to have a separate flag for Jammu and Kashmir and adopted the Report of the Basic Principles Committee recommending the abolition of hereditary rulership and providing for an elected head of the State, it is necessary to consider the relationship of the State with India.

2. The earliest relevant document is the Instrument of Accession which was signed by the Maharaja of Jammu & Kashmir on the 26th October, 1947 and accepted by the Governor-General of India on the 27th October, 1947. It is in the form in Appendix VII to the White Paper on Indian States (1950 edition). The Instrument of Accession provides in clause 8 that nothing in the Instrument affects the continuance of the Ruler's sovereignty in and over the State or *** the exercise of any powers, authority and rights enjoyed by the Ruler as Ruler of the State. In clause 9 it is made clear that a reference "to me or to the Ruler of the State is to be construed as including a reference to my heirs and successors." This Instrument of Accession was accepted by the Governor-General of India on the 27th October, 1947. Therefore the Government of India accepted the position that the Instrument of Accession did not affect the continuance of the sovereignty of the Ruler in and over his State.

White Paper on Indian States (1950 Edition) p.165.

3. The next document in order of date is more important. It is a Proclamation dated the 5th March 1948 made by the Maharaja. This document is the charter of the Constituent Assembly of Jammu and Kashmir and is referred to in express terms in Article 370 of the Constitution. That Proclamation recites "the legitimate desire of my people for the immediate establishment of a full democratic constitution based

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on adult franchise with a hereditary Ruler from my dynasty as the constitutional head of an Executive responsible to the Legislature". The Proclamation provides for the convening of a "National Assembly based on adult franchise". "The Constitution to be framed by the National Assembly" was to "provide adequate safeguards for the minorities and contain appropriate provisions guaranteeing freedom of conscience freedom of speech and freedom of assembly". It further provides that "the National Assembly shall, as soon as the work of framing the new constitution is completed, submit it through the Council of Ministers for my acceptance".

It will be noticed that the charter itself provides that the constitution should be based on adult franchise with a hereditary ruler "from my dynasty as the constitutional head" and that the constitution will be subject to acceptance by the Ruler. These two provisions clearly indicate that the National Assembly cannot, without violation of its charter, depart from the principle of adult franchise or a hereditary ruler.

4. The next document is the Proclamation dated th 25th November, 1949 by the Maharaja. The Instrument of Accession provides that "nothing in this Instrument shal be deemed to commit me in any way to acceptance of any future constitution of India". It is because of the existence of this clause that the Proclamation dated 25th November, 1949 became necessary. The operative part of the Proclamation is as follows:-

White Paper on Indian States (1950 Edition) p.371.

> "That the Constitution of India shortly to be adopted by the Constituent Assembly of India shall in so far as it is applicable to the State of Jammu and Kashmir, govern the constitutional relationship between this State and the contemplated Union of India and shall be enforced in this State by me, my heirs and successors in accordance with the tenor of its provisions".

The words "me, my heirs and successors" may be noticed.

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5. Before we consider the relevant provisions of the Constitution of India, it may be pointed out that till the 26th October, 1947, the Maharaja of Jammu and Kashmir was the de facto and de jure ruler of that State having all the rights, privileges and responsibilities of a ruler of any other Indian State of the same status and he acceded to India in the same terms as other similar rulers had done earlier. The Government of India by accepting the accession by the Maharaja accepted the terms thereof which are mentioned above including clause 8 which lays down that the Instrument did not affect the continuance of the Ruler's sovereignty in or over the State or the exercise of any powers, authority and rights enjoyed by the Ruler as Ruler of the State. The question naturally would arise whether it is open to the National Assembly of Jammu and Kashmir also called the Constituent Assembly to do anything unilaterally without reference to and the concurrence of the Maharaja and of India which would be contrary to any of the provisions of the Instrument of Accession.

6. Relevant Articles of the Constitution may now be mentioned. Article 1 which is applicable to the State of Jammu and Kashmir treats the territories of the State of Jammu and Kashmir as territory of India and includes the State of Jammu and Kashmir among Part B States of the First Schedule. Article 370, clause (1)(a) excludes the application of Article 238 to the State of Jammu and Kashmir which lays down that the provisions of Part VI shall apply in relation to the States in Part B of the First Schedule as they apply in relation to the States specified in Part A of that Schedule subject to certain modifications and omissions mentioned therein. Article 370(1)(b) limits the power of Parliament to make laws for that State to (i) those matters in the Union List and the Concurrent List which in consultation with the

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(6)

Government of the State are declared by the President to correspond to matters specified in the Instrument of Accession as the matters with respect to which the Dominion Legislature may make laws for that State and (ii) such other matters in the said List as with the concurrence of the Government of the State the President may by an order specify. An explanation to the clause says that "for the purposes of this Article the Government of the State means the person for the time being recognised by the President as the Maharaja of Jammu and Kashmir, acting on the advice of the Council of Ministers for the time being in office under the Maharaja's Proclamation dated 5th Day of March 1948" quoted above. Article 370(1)(c) makes the provision of Article 1 of the Constitution applicable to that State and clause 370(1)(d) makes such of the other provisions of the Constitution applicable to the State subject to such exceptions and modifications as the President may by an order specify provided that no such order relating to matters specified in the Instrument of Accession shall be issued except in consultation with the Government of the State and provided further that no such order relating to matters other than what is referred to in the last proviso shall be issued except with the concurrence of that Government. Article 370(2) lays down that if the concurrence of the Government of the State referred to above be given before the Constituent Assembly for the purpose of framing the constitution is convened, it shall be placed before such Assembly for such decision as it may be take thereon. Clause 3 of Article 370 lays down that notwithstanding anything in the foregoing provisions of the Article the President may by a notification declare that this Article shall cease to be operative or shall be operative with only such exceptions and modifications and from such date as he may specify

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(7) provided that the recommendations of the Constituent Assembly of the State shall be necessary before the President issues such a notification.

Appendix LVI Page 378 of White Paper on Indian States (1950 Edn.)

7. The President in exercise of the powers conferred on him by clause (1) of Article 370 of the Constitution in consultation with the State of Jammu and Kashmir made an order named "The Constitution (Application to Jammu and Kashmir) Order 1950." Section 2 of that Order lays down that matters specified in the First Schedule to this Order are declared to correspond to matters in respect to which Parliament may make laws as being matters corresponding to those specified in the Instrument of Accession. Section 3 lays down that in addition to the provisions of Article 1 and Article 370 of the Constitution, the only other provisions of the Constitution which shall apply in relation to the State of Jammu and Kashmir shall be those specified in the Second Schedule to this Order and shall so apply subject to the exceptions and modifications specified in the said Schedule. The Second Schedule lays down in detail the provisions of the Constitution which will be applicable and the exceptions and modifications thereto. By the Second Schedule to the Constitution (Application to Jammu and Kashmir) Order 1950, Part XIX of the Constitution within which Article 366 occurs is made applicable to Jammu and Kashmir and Article 366 is not mentioned as one of the exceptions nor is any other modification relating to clause (21) of Article 366 indicated therein so that Article 366 is applicable to the State of Jammu and Kashmir under that Order. Article 366, clause (21)(b) lays down that Rajpramukh means in relation to the State of Jammu and Kashmir the person who for the time being is recognised by the President as the Maharaja of that State. It would seem that the office of Rajpramukh cannot be abolished nor can a person other than the one mentioned there be

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appointed to that office nor can that appointment be made by any authority other than the President of India without amending the Constitution.

8. The question which requires consideration is whether in view of the fact that India accepted the accession of the State of Jammu and Kashmir in terms of the Instrument of Accession and in view of the Proclamation of the Maharaja authorising the convening of a Constituent Assembly for drawing up a Constitution subject to the limitations relating to the continuance of constitutional headship of the State in his dynasty, it is open to the Constituent Assembly unilaterally without reference either to the Maharaja or to India and without their concurrence to abolish the constitutional headship of the State.

9. Apart from this constitutional and legal question which arises, it is important that the position of Jammu & Kashmir vis-a-vis India should be clarified. To my mind the following points require clarification:-

(1) Whether Jammu & Kashmir, as a constituent unit of the Republic of India, can have a separate flag of its own:

(2) India has undertaken, according to the Instrument of Accession, to look after, broadly speaking, three items, namely Defence, Foreign Affairs and Communications. Is India entitled to raise funds from the State of Jammu & Kashmir to meet the expenditure in connection with these three items ? The question assumes importance on account of the large expenditure which will have to be incurred in connection with defence. It should also be clarified whether in respect of communications, India can apply the same standard to Jammu & Kashmir as is applicable to other States, say for example in fixing railway fares and rates, postage rates, fares for air service, &c. ? Or is Jammu & Kashmir to be differently treated in respect of these matters also ?

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(3) As no financial integration of any sort has yet come about, what is the relation between India and Jammu & Kashmir regarding the finances ?

(4) What is the position of the Supreme Court with regard to the State of Jammu & Kashmir ? What is the limit, if any, to its jurisdiction over matters relating to Jammu & Kashmir ? Is it the same as, or different from, that of any other State ? If different, wherein does it differ ? In this connection, attention may be drawn to the Constitution (Application to Jammu & Kashmir) Order 1950, Schedule I, item 77.

Page 380, White Paper on Indian States.

(5) What are the other subjects, if any, in respect of which the Union Parliament has jurisdiction ?

10. In this connection, attention may be drawn to the Second Schedule of the Constitution (Application to Jammu & Kashmir) Order 1950, which mentions the provisions of the Constitution applicable to Jammu & Kashmir and the exceptions and modifications thereof.

11. In considering these questions, one point must be borne in mind. The Instrument of Accession in the case of Jammu & Kashmir, is the same as that in the case of other States. The other States however, by subsequent agreements of merger and covenants or supplementary Instruments of Accession, accepted the position which is now represented by the Constitution of India. These subsequent documents were executed by the rulers of the respective States just as the original Instruments of Accession were executed, and in this way they parted with whatever sovereignty was reserved to them by the first Instrument of Accession. In the case of Jammu & Kashmir, we have had no such subsequent agreement or Instrument of Accession and the question remains whether without the Maharaja's consent and concurrence, India would be justified in accepting any arrangement which would go against the reservation made in the Instrument of Accession which was

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accepted by India regarding the Maharaja's and his dynasty's rights. India, by accepting the Instrument of Accession, accepted all its terms and owes a moral, if not a legal, obligation to him to enforce the terms thereof. The course which would seem free from objection, and consistent with the obligations which India owes to the Maharaja, would be to secure from him an Instrument which would accept and ratify whatever is done by the Constituent Assembly, as was done in the case of the other States regarding the Constitution which was adopted for India, and that is what is contemplated and laid down by the Proclamation of the Maharaja dated the 5th March 1948, convening the Constituent Assembly.

flag D, para 6.

Sd/- Rajendra Prasad
19. 6. 1952.

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सत्यमेव जयते

(11)

Copy sent for R.P. 16/6/52

TOP SECRET

New Delhi,
June 19, 1952.

My dear Mr. President,

9 ante

Thank you for your letter of the 19th June sending me a note on Kashmir. The Kashmir Ministers, after their preliminary talks with us, have gone back tonight to Srinagar. Presumably they will return after some days.

p. 2-9 ante

Your note is very helpful in considering this question. I shall be glad if you could have copies sent to Maulana Azad, Shri Gopalaswami Ayyangar and Dr. Katju.

In your note you have laid stress on strictly legal aspects of the case and the limited powers of the Constituent Assembly of Jammu and Kashmir State. Whatever the strict law may be, I imagine that it is difficult to limit the powers of the Constituent Assembly deriving its sanctions from the people. Our Constituent Assembly took shape under the British Government. It is true that it was not limited in scope, but underwent several changes of its own volition and ultimately, the people of India, functioning through their Constituent Assembly, gave to themselves their Constitution.

I rather doubt if any argument, however sound in strict law, which is based on the Maharaja's autocratic power, can be advanced now. In dealing with other States, we got some kind of consent from the Rulers. But it is well-known that that consent was due to the pressure of circumstances and not through any particular goodwill on their part. In any event, I do not see how we can take our stand on some innate authority of a hereditary autocratic Ruler.

What is important to me is not the Ruler but the President and the Constitution of India and anything that may be done should be in keeping with that Constitution and with the dignity and authority of our President. It must be remembered, however, that the position of Kashmir has been very peculiar ever since its accession and, more especially, since the reference to the U.N. We are committed to abide by the decision of the people of Kashmir, whatever it might be. We are committed secondly to a plebiscite. If the people of Kashmir decide to remove or do away with their old Ruler, we must accept that decision, in view of our repeated assurances to that effect. If they want to leave India, that also we have to accept, because of our assurance. We would of course want this done in the proper way and having due regard to constitutional proprieties. The Maharaja's wishes cannot come in the way.

Because of all this, a special provision was made in our Constitution in the transitory clause, so that we can give effect to changing circumstances without having recourse to a formal amendment of our Constitution. So far as Maharaja Hari Singh is concerned, he was put out of the picture a long time ago and he has no authority whatever now and there is not the least chance of his return to Kashmir as Ruler.

It is, however, perfectly true that the Kashmir Government or Constituent Assembly should not take any

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step affecting our Constitution without reference to India and without our concurrence. If they take such a step unilaterally, it means some kind of a conflict with our Constitution, unless we are prepared to adapt our Constitution to meet their wishes.

Even the present situation in Kashmir is that the Maharaja or his son, the Regent, is a strictly constitutional Head and should abide by the advice of his Ministers. If he refuses to do so, he breaks a well-recognised convention.

We have to bear in mind also that, apart from Kashmir, there is strong feeling in India, and in our Parliament, against all hereditary Rulers. Even the present position of Rajpramukhs and other pensioned Rulers is criticised and not accepted willingly. An argument based on hereditary right will not be agreeable except to very few in India.

pp. 7-8 ante

The important questions that arise are mentioned in paragraph 9 of your note. In my talks with the Kashmir Ministers, I told them that the first question to decide and clarify was the position of Jammu and Kashmir State vis-a-vis India. In this connection, I mentioned some of the matters to which you have referred in paragraph 9.

Their answer was that of course Jammu and Kashmir State is a constituent unit of the Republic of India, that it has acceded in regard to three subjects and it is open to it to accede to more. That the Supreme Court undoubtedly exercises jurisdiction in regard to the subjects of accession. That the Union Parliament has full jurisdiction in regard to the subjects of accession, whatever they might be. They admit the necessity of financial integration of the State with India and are prepared to have talks on this. They are waiting for a note from the States Ministry on this subject. As regards the flag, they recognise the Flag of India and say that there is no conflict in having a separate flag of their own at the same time.

I told them that all this was rather vague and we should define our relationship precisely.

Yours sincerely,

Jawaharlal Nehru

Dr. Rajendra Prasad,
President,
Rashtrapati Bhavan,
New Delhi.

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TOP SECRET

11

20th June 1952

My dear Jawaharlalji, P10

Many thanks for your letter dated the 19th June in reply to mine, forwarding to you a note about Kashmir. I personally attach more importance to the part dealing with the relationship of Kashmir with India and I am pleased to learn as you have said those matters are receiving attention.

As regards the first part of the letter, I pointed out the exact legal position as it appears to me. Just as in the case of the other princes, force of circumstances and the general situation in the country induced them to sign the subsequent agreements and supplementary Instruments of Accession, it should be possible in the case of Kashmir also to get that done. It is not because we attach much importance to or are in any way inclined in favour of the hereditary system, but because by previous documents certain obligation is cast on India and in all these matters it is in the long run best to stick to form and not appear as if we are going back upon anything which we had agreed to. It is from that point of view that I suggested it would be best to get the Maharaja's or the Yuvaraja's consent to whatever is decided there and I imagine that it should not be difficult to get such consent if the thing is handled tactfully and they are not made to feel as if we are riding roughshod. I believe they also understand the situation and will fall in line if properly handled. In all agreements between a strong party and a weak party, it is always possible for the stronger party to enforce its will but ~~which~~ is not always desirable or proper even if the weaker party has misbehaved.

Yours sincerely,

Sd/- R.P.

Shri Jawaharlal Nehru,
Prime Minister.

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(14)

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9/12

20th June 1952

P2-9 and

My dear Dr. Katju,

I enclose herewith copy of a note on Kashmir which I have sent to the Prime Minister.

Yours sincerely,

JL

Dr. K.N.Katju,
New Delhi.

Shri

Issued
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(15)

OFFICE OF THE SECRETARY
TO THE PRESIDENT.
Dy. No. 425—O/53
Date 4/3/53

Dr. Rajendra Parsad ji

President

Rashtrapati Bhawan

New Delhi

O/4/3

Keep. One copy to Sol.

NATIONAL ARCHIVES OF INDIA

INTEGRATE KASHMIR

Mookerjee—Nehru & Abdullah
Correspondence

NATIONAL ARCHIVES OF INDIA

NTEGRATE KASHMIR

Mookerjee—Nehru & Abdullah

Correspondence

NATIONAL ARCHIVES OF INDIA

PUBLISHER'S NOTE

In pursuance of the resolution on Kashmir situation and Jammu Satyagraha passed at the Kanpur Session of the Bhartiya Jana Sangha, its President Dr. Syama Prasad Mookerjee wrote letters to Pt. Jawahar Lal Nehru, Prime Minister of India and Sk. M. Abdullah, Chief Minister of J. & K. State. The Correspondence has been a protracted one, partly because of a desire on the part of the Jana Sangha leader to arrive at a peaceful solution of the Jammu impasse and partly because Pt. Nehru and Sk. M. Abdullah avoided the issues and refused to answer argument by an argument.

However, the issues have been thoroughly thrashed out and it shall be evident from the letters that there is a fundamental difference between the two approaches.

The correspondence is published and it is left to the public to judge which of the two approaches is correct. The people will have to decide if they want a well-knit and United Bharat or a loose federation of Semi independant States such as Sh. M. Abdullah claims J. & K. to be.

It is regretable that all efforts of the Jana Sangha at a peaceful and honourable settlement of the Jammu agitation and to forge an United front on the Kashmir issue have failed. The Govt. has failed to realize the depth or feeling with which the people of Jammu are carrying on their struggle and has on the contrary resorted to inhuman ways for suppressing the movement.

Dindayal Upadhyaya,
General Secy.

NATIONAL RIGHTS OF INDIA

I

77, Asutosh Mookerjee Road,
Calcutta 25
9th January, 1953.

My dear Jawaharlal Ji,

May I take the liberty of addressing you on the situation in Jammu? We discussed this matter at Kanpur session of Bhartiya Jana Sangh and it was the unanimous wish of every one that I should directly approach you and Sheikh Abdullah on the subject. I know that you do not see eye-to-eye with many of us on this issue. Yet I am writing to you in the hope that yon will keep an open mind and try to appreciate the view-point of those who may differ from you on this matter. It is vitally important that the circumstances that have led to the present movement should be impartially reviewed and effort made to arrive at a speedy and peaceful settlement which will be fair and just to all concerned.

The movement is not on the wane, although more than six weeks have passed since its commencement. It has spread far and wide and is receiving the support of large sections of people in urban and rural areas, all obviously not being members of the Praja Parishad.

It is not correct to say that the movement has been instigated by parties or groups of individuals outside the State of Jammu and Kashmir. The issues which

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have been raised have a direct appeal to the people and the responsibility for guiding the movement has fallen on their own representatives. Many of us have no doubt sympathised with the object for which the struggle has been launched, because we sincerely feel the cause is just and right; but the main brunt of the sufferings has till now fallen on local people who have depended primarily on their own resources.

It is not also correct to say that the sponsors of the movement have acted recklessly and precipitated a crisis. *Repeated efforts were made by the Praja Parishad leaders and others to have an amicable settlement by constitutional means. Representations were sent to Dr. Rajendra Prasad, to yourself, to the Minister of States and to Sheikh Abdullah. Interviews were sought for with some of them, but such requests on most occasions were not granted.* Conferences were held from time to time and after mature deliberations the view-points of the Praja Parishad and others supporting it were publicly expressed. Apparently the authorities concerned paid no heed to such manifestations of public opinion and even treated them with contempt. On the other hand, some of the matters regarding which acute controversy had been raised were proceeded with by the authorities themselves with undue haste, thus precipitating a crisis.

Allegations of violence, of use of arms and of subversive activities have been freely made against the sponsors and supporters of the movement. This has been stoutly denied. If this matter has to be probed

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into, it must be done by some impartial authority and the spokesmen of the Praja Parishad have declared they are prepared to face an independent enquiry. Repeated references to use of violent methods have been made by the authorities in justification of the violence employed by themselves.

During the last six weeks we have witnessed a continued reign of repression. In fact, in Parliament you went to the length of saying that if it were left in your hands you would have used even greater force and suppressed the agitation. Reports reaching us are contradictory in nature. While the official reports attempt to suppress the extent of the movement and the volume of repression, information received through non-official sources indicates a widely different state of affairs. Arrest of about 1,300 persons, lathi-charges, tear-gassing, shooting, transfer of ill-clad prisoners to severely cold regions, confiscation of properties are the methods that are said to have been resorted to. This has not suppressed the agitation. It has sought to intensify it.

It is high time that both you and Sheikh Abdullah should realise that this movement will not be suppressed by force or repression. Certain basic demands have been made, fears and doubts have been expressed and they must be dealt with in a proper manner. In some of your recent utterances you have laid great stress on the need for appreciating each other's point of view, on tolerance, on carrying people with Government not by force but by good will and

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understanding. Yet when it comes to actual administration, it appears that the same old methods which used to disfigure British administration are still in operation, sometimes with even greater vehemence than before. The problem of Jammu and Kashmir should not be treated as a party issue. It is a national problem and every effort should be made to present a united front.

Very often the issues are sought to be clouded by referring to the alleged past activities of the Praja Parishad. For obvious reasons it will be better to deal with the actual issues on their merits. If once we start questioning the motives of each other, the atmosphere will become all the more polluted. Please do not overlook that a good number of Moslems in Jammu have also joined the movement. I would earnestly urge upon you to consider the effect of the movement on the rest of India. *The State of Jammu and Kashmir is a part of the Indian Union and as such it is perfectly open to the people of the rest of India to interest themselves in the affairs of the State.* India has risked a good deal for the sake of this particular State. For this there is no regret in any quarter. At the same time we have to be careful that the sacrifice made by India does not go in vain for the mistaken policy pursued by the authorities.

We are anxious that the question of accession of the State of Jammu and Kashmir to India should be finally and irrevocably settled. This is still supposed to be depending on a plebiscite. The recent developments in the Security Council amply indicate that we can

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expect no fair deal from this quarter. There should be no question of taking a general plebiscite for determining the will of the people. The Assembly formed in the State of Jammu and Kashmir is based on adult franchise. Even though doubts have been expressed regarding the validity of some of the elections, specially from Jammu, this body may pass a resolution in favour of accession to India and this may be considered sufficient for ascertaining the will of the people. This will set at rest all the uncertainty that exists on the question of the State's ultimate accession to India. I was told by Sheikh Abdullah that he and his colleagues were willing to adopt this procedure but you were not prepared to approve of it. Perhaps at that time you expected that there might be some possibility of a satisfactory settlement through the Security Council. Now that this has proved abortive, we should declare our next line of action with as little delay as possible and thus avoid complications both at home and abroad.

The Praja Parishad rightly puts a pertinent question. If the ultimate accession of the State to India continues to be undecided and if the decision will have to be based on a general plebiscite of the people, what will be the fate of Jammu in case the majority of the people, consisting of Moslems, vote against India? Pray do not brush aside this point as fantastic. We cannot forget our bitter experience regarding the vivisection of India nor can we ignore the tragic fate of North Western Frontier Province inspite of the patriotic and progressive leadership of Khan Abdul Gaffar Khan and his worthy brother. A general

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plebiscite on a highly controversial issue, which may easily give rise to communal passions, specially on account of Pakistani propaganda, is not at all a safe criterion for knowing the real will of the people. The people of Jammu naturally abhor the prospect of facing destitution as refugees. They are not prepared to sever their connection with India under any circumstances, plebiscite or no plebiscite. The greater the delay in having this moot question decided once for all, the greater will be the complications and possibilities of unrest.

Once it is settled that a final decision has been taken on the question of accession, two matters will have to be taken up. One relates to the recovery of one-third territory of Jammu and Kashmir which is now in occupation of Pakistan, Even though Pakistan has been proved to be the aggressor, the Security Council will not help us in this respect. Pakistan will not voluntarily abandon its control over this area. How then, it is asked, are we going to get this back? You have always evaded this question. The time has come when we should know what exactly you propose to do about this matter. It will be nothing short of national disgrace and humiliation, if we fail to regain this lost portion of our own territory.

The other question relates to the extent of accession of the State of Jammu and Kashmir with India. No doubt Article 370 lays down that apart from defence, foreign relations and communications, accession with regard to other matters will be determined with the

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previous consent of the Government of Jammu and Kashmir. As you will remember, this is a temporary provision and Sri Gopalaswami Iyengar who had moved the adoption of this Article, had clearly indicated that this was so and that it was the hope and wish of everybody concerned that the State of Jammu and Kashmir would finally accede to India just as other States had done. If, therefore, the people of Jammu demand that accession should be on the same lines as in the case of other States, they do not say anything that is arbitrary or extra-ordinary. This is their natural wish and they are guided by patriotic and national motives. They only emphasise the need for maintaining a consolidated structure of Free and United India.

Sheikh Abdullah and some of his colleagues were members of the Constituent Assembly which had drawn up India's Constitution. The onus, therefore, lies on them and not on others who differ from them—if they claim that the State of Jammu and Kashmir should receive special treatment and accession in their case should be of a loose character. The provision for an elected President or a separate flag has to be looked at from the point of view of those who honestly feel that this may be destructive of the political unity of India which it must be the duty of every State and citizen to maintain at any cost. If similar demands were made by other States, it would give momentum to dangerous tendencies of separatism. Again the delay in giving effect to some of the agreed proposals as announced by you in July last, dealing with matters

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such as citizenship, fundamental rights, supreme court, President's emergency powers etc. has created great misgivings in the minds of the people.

Repression will be no answer to the fundamental question which the people of Jammu are asking today-namely, have they not the inherent right to demand that they should be governed by the same Constitution as has been made applicable to the rest of India? If the people of Kashmir Valley think otherwise, must Jammu also suffer because of such unwillingness to merge completely with India? *Ek nisan, ek vidhan, ek pradhan*—one flag, one constitution, one president—represents a highly patriotic and emotional slogan with which the people are carrying on their struggle. You or Sheikh Abdullah cannot answer this question by imprisonment or bullets. How this has to be solved is a matter for negotiation and statesmanship.

None knows better than you the peculiar characteristics of different parts of the State of Jammu and Kashmir. Kashmir valley, Jammu and Ladakh represent different types of people; their languages, their outlook, their environments, their habits and modes of life, their occupation differ from one another in many vital respects. Historically and politically they came to be united into one homogeneous unit which we naturally should not like to disrupt or destroy. The task of maintaining natural bonds of unity amongst such people can be done not through force or coercion but by creating a common atmosphere of good-will and confidence. It is a big psychological problem also and requires delicate

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and careful handling. You and Sheikh Abdullah could have done a lot in this behalf if you had only proceeded on right lines and not misunderstood every one who might have differed from you in respect of certain vital matters concerning the future set-up of the State.

As you know several thousands of people, previously residing in the Pakistan-occupied area of the State, are living as refugees in India. They mostly belong to Jammu. On some pretext or other their proper rehabilitation within the State itself has not been rendered possible and they are passing miserable days. They have been even refused permission to withdraw their own deposits from the State Bank at Srinagar on technical grounds. Again more than four thousand Hindu and Sikh women were abducted from this area by Pakistani raiders. Nothing has been done to recover them. Constant abuses of and attacks on Dogras as a class by Sheikh Abdullah and his colleagues have created an atmosphere of distrust and bitterness. Land laws have been drastically altered in the State and they are undoubtedly of very great significance. But no one has cared to examine how they have reacted even on comparatively poorer people in Jammu, whose economic existence has thereby been rendered extremely difficult. These and similar other matters must be borne in mind if we expect a peaceful and permanent solution of the problem.

I have not referred in this letter to other serious allegations regarding the administration and policy of

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discrimination followed by Sheikh Abdullah's Government. These matters can be considered by some impartial authority on the basis of facts and figures which can be supplied to you or to Sheikh Abdullah.

People who are facing sacrifice and suffering cheerfully are not enemies of India or of Jammu and Kashmir. It is absurd to dub them as friends of Pakistan. Pakistan knows very well that if their stand is accepted, there is no earthly possibility of its ever annexing Jammu and Kashmir to its territory. I would earnestly request you to consult Sheikh Abdullah and as a first step release all those who have been arrested and withdraw the vindictive punishments and orders inflicted on them. This should be followed by a conference at which matters of dispute should be discussed and a solution sought to be reached which would be to the good of India as a whole and would in every way be consistent with the rights and welfare of the people of Jammu and Kashmir Pray do not stand on false prestige or imitate the methods followed by British administrators who thought that by ruthless repression they could solve any matter affecting the rights and liberties of the people. You have spoken eloquently about Gandhian technique in solving disputes. My appeal to you is that you should apply this in solving the impasse that threatens not only the peace of Jammu and Kashmir but may also have serious repercussions affecting India as a whole. The movement is spreading and it will spread more and even extend to parts of India, if repression is the only remedy that the authorities have the wisdom to apply.

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I know you have abused us, you have ridiculed us and have seen nothing good in our criticisms. Much though I have differed from you on this issue, I have tried to appreciate your stand-point, your fears and your hopes. And it is from this point of view that I have ventured to address this letter to you and to ask you to appreciate the views of your opponents and proceed in a manner different from what you are following today. I hope and trust that my appeal to you will not go in vain and that you will take immediate steps for tackling the serious situation which is fast developing in Jammu.

I have not addressed this letter to you at the request of the Praja Parishad leaders. I have every hope that if you make the proper approach and proceed in appreciation of their basic demands, an honourable settlement can and will be affected.

I am sending a copy of this letter to Sheikh Abdullah. If you want me to discuss the matter personally with you and Sheikh Abdullah, you may let me know and I shall gladly abide by your wish.

Yours sincerely,
(Sd.) Syama Prasad Mookerjee

Sri Jawaharlal Nehru,
Prime Minister of India,
New Delhi.

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II

77, Asutosh Mookerjee Road
Calcutta 25.
January 9, 1953.

My dear Sheikh Sahib,

I am enclosing copy of a letter which I am addressing to Sri Jawaharlal Nehru. Much of what has been stated in the letter is also meant for you, and I do not wish to repeat what I have said in it. I would earnestly request you to take the initiative and bring the Jammu movement to an end. You have proved through your own career that repression can never suppress a popular movement. History will repeat itself in this case also. You will have to appreciate the point of view of your opponents and, as a democratic leader, meet the just and legitimate demands of those who are struggling against you and Mr. Nehru. The issues at stake affect not only your State but the whole of India and I hope you will move before the situation further deteriorates.

I hope you will appreciate the spirit in which I am writing to you and Mr. Nehru. Abuses and counter-abuses will give us no remedy. The issues are capable of being discussed in a spirit of understanding and good faith and a solution reached which will be fair and just to all concerned.

Yours sincerely,
(Sd.) Syama Prasad Mookerjee

Sheikh Md. Abdullah,
Chief Minister,
JAMMU & KASHMIR.
Enclo: Copy of letter.

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III

New Delhi.
January 10. 1953.

My dear Syama Prasad,

I have today received your letter of the 9th January. I am replying to it immediately as I shall be going away soon from Delhi on my way to Hyderabad.

There is no question of prestige about our dealing with the situation in Jammu. If any course appears to us to be right, we shall certainly follow it. You say that there has been a reign of repression in Jammu, and further that there has been no violence on the part of the Praja Parishad or their supporters. Surely it does not require any proof to substantiate the fact that violence on a widespread scale has been indulged in by the Praja Parishad people. The fact that a large number of officers and policemen have been injured and damage done to public buildings, is adequate proof of violence.

I am naturally interested in developments in Jammu and have followed them closely. I have not only what might be called official reports, but plenty of unofficial sources of information. All of these agree that the Jammu & Kashmir Government has tried to avoid repressive measures and, considering the circumstances, has shown considerable restraint. Quite apart from the merits of the case, I should like you to put yourself in the position of any Government which has to face this type of agitation accompanied by violence. Either a Government abdicates or it controls the situation.

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There is no middle way. It is true that in the attempt to control a situation excesses may be indulged in on the part of the authorities, but, as I have said above, my information is to the contrary. I cannot of course speak about every detail.

You say that interviews were sought with us and were not granted. I am not aware of any interview asked for from me during recent months. All I saw were threats in the public press.

I hope I am capable of keeping an open mind. Anyhow, I try to do so and I am prepared to consider any suggestion. In this matter, more than any other, I have to give the closest thought to every development. What happens in Jammu is not a local matter. It has the largest implications on the whole Kashmir issue, on the future of the J. & K. State, on the U. N. etc. The question has to be viewed in that larger context. It amazes me that this context is forgotten or ignored or no value attached to it by those who support this Jammu agitation. To me it seems perfectly clear that the Jammu agitation, if it succeeded, would ruin our entire case relating to the State. Indeed, nothing could be more injurious to the objectives proclaimed by the Praja Parishad than this agitation. How they expect to achieve their objectives in this way, passes my comprehension. You have some knowledge of the background of this entire Kashmir issue and I would like you to think over this whole question.

Suppose some remnants of the Muslim League in the Valley of Kashmir started an agitation which was

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anti-India and pro-Pakistan, how should we deal with it? What effect do you think has the Praja Parishad agitation on such persons in the Valley or elsewhere? If you open Pandora's box, then all kinds of unexpected and undesirable things come out of it. A consistent policy has to be followed in both cases.

You have referred to the agreement arrived at between the Government of India and the J. and K. State Government some months ago and have criticized it. We dealt with this matter at the time fully and I tried to explain the reasons for it. Obviously, the case of Jammu and Kashmir State cannot be considered in exactly the same light as other States in India. That requires no argument. It is not a question of our wishes or desires but of facts and rather complicated facts. Having considered all these facts, we came to a certain decision which I think was fair and which tied up the State to India very firmly. Ultimately it is not some kind of legal decision or change in the Constitution that will finally settle this question of the State. There are other factors overriding consti tutional factors that are at play, including international factors. Foreign policy does not just mirror our wishes, nor is it a mere exhibition of temper. It has to be equated to the facts of the situation and the nation's strength to give effect to its wishes.

You refer to Sheikh Abdullah telling you that he and his colleagues were willing to get their Constituent Assembly to pass a resolution about the State's accession to India, but that I did not approve of it.

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This is partly true; but it refers to a particular time. When the Constituent Assembly first started functioning this proposal was considered. Our advice then was that it would not be wise to pass that resolution immediately as this would lead to the conclusion that the Assembly had been called just for that purpose and not for other purposes. As a matter of fact, according to us, the accession was complete and a resolution of the Constituent Assembly, though welcome, could not have made it more complete. The question was not of adding to that accession, but of our attitude towards the U. N. We had made this clear and we wanted to adhere to what we had stated. That is a large issue. It is of course compeletely open to the Constituent Assembly to pass such a resolution. As a matter of fact, the agreement between the Government of India and the J. and K. State Government some months ago was patently not only a confirmation of that accession, but acting up to it. Without accession that could not have happened.

You refer to that agreement not having been given effect to. That is true. But there have been some difficulties in the way which delayed matters. The very first question that was taken up took some months to decide. The other matters will no doubt be taken up.

There is no question of the Head of the Jammu and Kashmir State being some kind of a rival President. He is the Head of a State just like the Head of any other State in India. He can only be

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appointed after the approval of the President of India.

I am quite prepared, and I am sure that Sheikh Abdullah is prepared, to consider any grievances of the Jammu people and try to rectify them where this is possible. But the demands of the Praja Parishad are basic constitutional issues which cannot be given effect to far obvious reasons. They are trying to decide a very difficult and complicated constitutional question by methods of war. It does not require much thought to demonstrate that this method cannot yield those results, whatever the merits may be. It can only injure the whole cause of the Jammu and Kashmir State and in particular what presumably some of the Jammu people demand. You talk of separatism. I agree with you entirely that we should not encourage this tendency. But that is exactly what the Praja Parishad agitation is doing.

You should know how anxious I am to settle finally the whole J. and K. State issue. That is not only because of the State itself, but also because of its large repercussions in India. But this issue has got tremendously complicated and there is no magic way of solving it by decree or Act of Parliament as some people seem to imagine. There are many other issues in the world today which remain unsolved, in spite of the greatest powers wishing to solve them. We have to take into consideration all these various factors and not allow our wishes to run away with us.

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You refer to rehabilitation of refugees as well as to abducted women. All these years we have been consistently trying to deal with these matters. A large number of abducted women have been recovered and large number of refugees in India have also been sent back for rehabilitation and settled in the State. It is not true to say that nothing has been done.

The right way to approach the Jammu question is to stop this agitation completely and then deal with any grievances that may exist. I hope you will exercise your influence with the Praja Parishad in this direction.

I shall gladly meet you if you so wish. But I am going away to Bombay and Hyderabad and shall be away for about ten days or so. I understand that Sheikh Abdullah will also be going to Hyerabad.

Yours sincerely,
(Sd.) Jawaharlal Nehru

Dr. Syama Prasad Mookerjee, M. P.,
77, Asutosh Mookerjee Road,
Calcutta 25.

IV

77, Asutosh Mookerjee Road,
Calcutta 25
The 3rd February, 1953.

My dear Jawaharlalji,

I received your reply to my letter to you on the Kashmir situation some time ago. Since then I have

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been reading some of your speeches and those delivered by Sheikh Abdullah. I have no desire to carry on a protracted correspondence with you on this matter. But the issues involved are so serious that I am taking the liberty of writing to you again. One common feature of the speeches has been an abundance of abuses and vituperations which you have poured forth on those who differ from you. You have ascribed to us all sorts of base motives and have even dubbed us as betrayers of the country's interest. I have no desire to emulate you in this respect. Outbursts of anger and passion will not help us in solving any big problem. It is obvious that we do not see eye-to-eye with each other on this momentous issue. Let us, however, try to argue with each other and proceed logically and see whether any solution can be reached.

I have read your reply and your speeches and those of Sheikh Abdullah with considerable care, but unfortunately they evade the real issues.

Let me, first of all, deal with your oft-repeated charge of communalism and narrowness against us. This is a most unfair charge and unconsciously you have been recently indulging in such attacks only to hide the weakness of your case. Our approach to the problem is actuated by the highest national and patriotic considerations. The solution that we are asking for is far from communal—nor does it seek to disunite or disintegrate India. I would beg of you to think in your cool moments how in your life's history

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your failure to stand against Moslem communalism in India has resulted in disastrous consequences. Perhaps you and others followed a policy of concessions and appeasement with the highest motives, but in the ultimate end the country came to be partitioned against your own oft-repeated declarations to the contrary. At that time a factor of very great importance which worked against us was the existence of an alien power which wanted to function on the policy of divide and rule. If to-day we want to be cautious and to avoid the tragic follies of the past, we do so in the highest interest of the country and not for any narrow communal ends or for any sectional interest.

The points which you have got to settle regarding Kashmir are the following:—

(1) The Praja Parishad has considerable popular backing. As one who knows mass mind, you will realise that no popular movement can be crushed by force. Even though you may not agree with the demand of the Praja Parishad, you must place your self in the position of the promoters and supporters of the movement and try to understand their view-points. Both you and Sheikh Abdullah have made long references to the alleged past history of the Praja Parishad. I have no desire to enter into a controversy with you on this point but much of what you have said is not based on facts. Such survey is, in fact irrelevant at this juncture. What is to be decided is the merit of the issues raised by the Praja Parishad.

(2) The first question raised is when and how will the accession of the State of Jammu and Kashmir

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to India be finally settled? If this depends on plebiscite, what will be the form of such plebiscite? We do not want this to be dependent on the interven tion of U. N. O. or negotiations with Pakistan. We went to the U. N. O. not for settlement of the issue of accession but for protection against aggression committed by Pakistan on India, which we claimed, included the State of Jammu and Kashmir. There is no hope for any just settlement through the U. N. O. No doubt it has been stated over and again by you that accession will be in accordance with the will of the people of Jammu and Kashmir. Our simple demand is that, that will should now be expressed once for all, and not left to an uncertain future. My own suggestion has been that the Legislative Assembly of Jammu and Kashmir which has been elected on adult franchise may pass a resolution accepting final accession and the matter may be considered as irrevocably decided so far as India is concerned. Your personal declarations or Sheikh Abdullah's speeches will not be sufficient. There must be a constitutional mode of settling this issue. Why do you and Sheikh Abdullah not accept the suggestion and settle one of the main points raised by the Praja Parishad? Please be specific on this issue and let us know that if this suggestion is not acceptable, what is your alternative proposal for finalising accession.

(3) The second question is with regard to the one-third territory of the State of Jammu and Kashmir which is now in the occupation of Pakistan. You have expressed yourself in thundering language against

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those who want to partition the State of Jammu and Kashmir. We do not want partition, and your charges are imaginary. But you seem to forget that the State of Jammu and Kashmir is already partitioned by Pakistan and the real question is whether you and Sheikh Abdullah propose to acquiesce in this partition. You have always evaded this question. Please do not sidetrack the issue and let the public of India know how and when, if at all, we are going to get back this portion of our cherished territory.

(4) The third point relates to the subjects in respect of which accession will take place. The Praja Parishad wants, and we whole-heartedly agree, that the entire State of Jammu and Kashmir should be governed in accordance with the same constitution that applies to the rest of India. Is their anything communal or reactionary or anti-national about it? If India's constitution is good enough for the rest of India, why should it not be acceptable to the State of Jammu and Kashmir? Sheikh Abdullah is in the habit of retorting that Article 370 of the Constitution gives the State of Jammu and Kashmir a special status. You and I perfectly know the history of his Article. Assuming that accession in relation to subjects other than Defence, Foreign Affairs and Communications, is to take place with the consent of the Government of Jammu and Kashmir, why can we not persuade that Government to agree to abide by the very constitution to which Sheikh Abdullah and his colleagues were a party as members of the Constituent Assembly of India? If it is felt that there are some matters in respect of which

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our constitution should be amended in order to meet the special needs of the State of Jammu and Kashmir, let us have a full picture of it and know what are the specific provisions which should be amended. We are prepared to discuss the matter with an open mind. There are, however, certain basic matters in respect of which the oneness of India must be maintained at any cost. They relate to such subjects as fundamental rights, rights of citizenship, jurisdiction of Supreme Court, functions and constitution of High Court, President's powers, national planning and financial integration. With regard to some of these matters, there was an agreement between the Government of India and Sheikh Abdullah's Government in July last to implement provisions of our constitution. We were not satisfied about the deviations made, but even this modified application of the Constitution has been unreasonably and unnecessarily delayed, thus creating doubts and misgivings in the minds of the public. The position of the Head of the State and the adoption of one flag for the whole of India are also essential features of the oneness of India. It is amazing how the move of separatism pursued by Sheikh Abdullah and his colleagues is being applauded by you as national and patriotic and the genuine desire ou the part of the Praja Parishad to secure the fundamental unity and integrity of India and to be governed as common Indian citizen is being dubbed as treacherous conduct. Your letter and your speeches give no satisfactory answer to these basic points raised by the Praja Parishad.

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(5) There are many grievances of the people of Jammu relating to such matters as their economic advance, their employment, rehabilitation of refugees, division of border districts on communal lines which require immediate investigation by an impartial Commission. Delay in dealing with these matters is intensifying the agitation.

(6) It is undoubtedly true that we should do nothing which may weaken India's position or strengthen the hands of our enemy. This aspect you, of all persons, must bear in mind as the Prime Minister of India. It is through your mistaken policy and your failure to understand the view-points of those who differ from you, that the country is being brought to the brink of disaster.

I have written to you with the sole desire of finding out if some way can still be found for bringing the Jammu movement to an end. The only way is to release all those who have been arrested and to call a conference where all the problems can be discussed in an atmosphere of calmness and with the sole desire to arrive at decisions which will be fair and just to all concerned. Repression, imprisonment, lathi-charges and bullets will never crush this movement. In fact, it will spread, go deeper and affect India as well. Recently some important persons wanted to visit Jammu to see what was happening there and your Government have deemed fit to refuse them permission to travel to that State. Yet you claim that this is a part of the Indian Union and Sheikh Abdullah asserts that there is nothing to hide.

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The Working Committee of the Jana Sangh is meeting in Delhi on 6th, 7th & 8th February to discuss the Kashmir situation. We cannot indefinitely continue as silent spectators of the sufferings of a section of our countrymen whose cause is noble and just and is capable of being sympathetically cousidered by any Government which have the well-being of the country at heart. That I am writing to you again in spite of your threats, abuses and rebuffs will amply show that we have no desire to precipitate a crisis. I still hope some way for a peaceful settlement will be found so that we may work unitedly on this matter, irrespective of political differences. I shall reach Delhi on the evening of 5th. If you feel that it will be better for me to come and have a talk with you on the morning of 6th, you may kindly send me a massage at my Delhi address—30, Tughlak Crescent, New Delhi.

Yours sincerely,
(Sd.) Syama Prasad Mookerjee.

Shri Jawaharlal Nehru,
Prime Minister of India,
New Delhi.

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V

77, Asutosh Mookerjee Road,
Calcutta-25.
3rd February, 1953.

My dear Sheikh Sahib

I had forwarded to you copy of my first letter to Shri Jawaharlal Nehru on 9th January. I duly received his reply. I have not, however, been favoured with even an acknowledgement from you. Inspite of this I am sending herewith copy of my reply to Shri Nehru,

I shall reach Delhi on the evening of 5th February. It is tragic you shall completely misunderstand those who are differing from you and are proceeding in a manner which may be disastrous to India including the State of Jammu and Kashmir. I still hope yon will be able to rise equal to the occasion and find a way for peaceful settlement.

Yours sincerely,
(Sd.) Syama Prasad Mookerjee

Sheikh Md. Abdullah,
Chief Minister,
Jammu and Kashmir

VI

Jammu Tawi
February 4, 1953.

My dear Doctor Saheb,

I received your letter of 9th January enclosing a copy of your letter to Shree Nehru only on my return from Hyderabad. Consequently, there has been some delay in replying to it.

I thank you for having given me this opportunity of writing to you on the Jammu situation in which you have evinced so much interest. When I met you in Srinagar in September last year, I had explained to you in detail our point of view in regard to some important issues pertaining to the State of Jammu and Kashmir. I had the satisfaction that as a result of that meeting you had somewhat appreciated our position because soon after you publicly spoke in more or less sympathetic terms about the difficulties that I and my colleagues were facing.

On this occation, however, I regret to note that you do not view with dispassionate understanding the peculiar situation that obtains at present in Jammu. On the contrary, you charge the Government with using repressive measures against the agitators. You seem to be of the opinion that the responsibiltty for this situation lies with us. I wish you had not drawn such hasty conclusions.

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You have referred to the legitimate demands of the Praja Parishad and have pleaded that they should be accepted. Before I touch this aspect we might pertinently examine the attitude of the Parishad to the question of Accession itself. There is conclusive evidence to show that the Praja Parishad is determined to force a solution of the entire Kashmir issue on communal lines. Its leaders have expressed their views publicly to this effect and I give below a few extracts from their speeches. These views leave no doubt as to the real motives underlying the present agitation :—

"Our way is not with Kashmir. Sheikh is not acceptable to us. We cannot tolerate Jammu and Ladakh going to the winds. We want the people to have blind faith in Praja Parishad and get ready by putting shrouds to attain our goal."

(Shree Madan Lal Secy. City Praja Parishad, at Samba on 20-10-52.)

"We would put an end to Sh. Abdullah and other workers of the National Conference. We will suck thier blood. We will root out this Government and send them to Kashmir. We do not like this Raj"

(Shree Reshi Kumar Kaushal, Member, Praja Parishad Working Committee, at Reasi on 23-11-52.)

What is really intended has been given out in a recent publication of the Praja Parishad. It says:—

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".....The present Constituent Assembly consists of 75 members. Its detail is as follows:—

Province	General.	Muslim.	Budhist.	Total
Kashmir	3	41	..	44
Jammu	21	8	..	29
Ladakh	..	1	1	2
Total	24	50	1	75

These figures clearly show that Sheikh Abdullah's Muslim dominance cannot and should not be forced upon Hindu Budhists of Jammu and Ladakh....."

(Page 12 of the pamphlet entitled "Jammu rejects a separate Constitution for Jammu and Kashmir State" issued by the Publicity Secretary, All Jammu and Kashmir Praja Parishad, Jammu)

You have referred to the participation of Muslims in the present agitation. I wonder whether in view of these avowedly communal views of the Praja Parishad and its past treatment of the Muslims, any sane Muslim would seriously think of associating with the present agitation. On the contrary, the Government have received representations from Muslims living in the disturbed areas for protection against the Parishad terrorism.

Let me come to what you have termed as the legitimate demands of the Praja Parishad. You refer to the sense of insecurity in regard to the future of

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Jammu from which the people here suffer. This uncertainty is not confined to Jammu alone. It is shared by the people of Kashmir and Ladakh as well. But what is the way out? It does not lie with me or with our Government to settle a dispute which is pending before the U.N.O. All of us are certainly eager that a speedy and satisfactory settlement should be arrived at. But the Praja Parishad has flung the demand in such a way as if I stand in the way of the solution of the problem.

Let me mention here that there seems to be a fundamental difference of approach to the Kashmir problem between various political parties in India. You refer to the Kashmir question being a national question. This would naturally presuppose a uniformity in the in the viewpoint of different parties in India. But unfortunately, much ill-informed and contradictory comment has been offered in regard to the position of the State. Not only is there lack of unanimity in regard to the objective but also in the methods suggested for achieving it. This adds to the obscurity of the issue nationally as well as internationally.

It is a legitimate right of every Indian to understand properly the Kashmir problem. But when such understanding becomes vitiated, it naturally warps judgement. I understand that the Jan Sangh has secured the cooperation of Master Tara Singh, the Akali leader. It is interesting to know what Masterji has to say about Kashmir. In his speech at Lucknow he is reported to have said:

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"Kashmir belonged to Pakistan. It is Muslim State. But I claim it in lieu of the property that the refugees have left in West Pakistan."

He has a solution to the problem as he says about the Kashmir Muslims that they should be driven to Pakistan, "the country to which the Kashmir Muslims really belong."

I do not know what to say to this piece of wisdom and statesmanship.

Then again, Mr. N. C. Chatterjee, the President of the Hindu Mahasabha, in his presidential address at Bhopal, while pleading for changing the constitution to bring it in conformity with Hindu ideals, said in regard to Kashmir that the Hindu Mahasabha would strive

"To demand the withdrawal of the Kashmir issue from the U. N. O. and also to demand the complete accession of the State of Jammu & Kashmir to India and the acceptance of the Indian constitution."

The Jan Sangh has also its own views in regard to the future of the State some of which you have expressed from time to time. At a Press conference recently you are reported to have said.

"If the people of the Kashmir Valley think otherwise there can be specific provision for this zone for the time being. We would readily agree to treat the Valley with Sheikh Abdullah as its head in any special manner and for such time as he would like but Jammu and Ladakh must be fully integrated with India

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according to the wishes of the people. Let me repeat that I do not want Jammu and Kashmir to be partitioned. But if Sheikh Abdulla is adamant, Jammu and Ladakh must not be sacrificed but the valley may be a separate State within the Indian Union, receiving all necessary subventions and being treated constitutionally in a manner as Sheikh Abdullah and his advisers desire."

On the basis of such fundamentally irreconcilable approaches, I do not think that the Kashmir question is being treated as a national question. There is no uniformity in this approach and consequently I do not know which point of view should be considerd by us as reasonable or representative. Mention of this diversity of views about Kashmir is relevant as you have referred to "the just and legitimate demands of the Praja Parishad" who are struggling, as you say, against Shree Nehru and myself for the fulfilment of these demands.

In order to restore a sense of security among the Jammu Hindus, you suggest that the State Constituent Assembly should pass a resolution ratifying finally the accession of the State to India. At the same time, you feel that this Assembly is not representative of the people of Jammu. It passes my understanding as to how the decision about accession can make it suddenly representative. But, apart from this, it has got to be considered what gains will accrue to India and to the State if such a decision is taken while the dispute is still pending before the U. N. O. We are

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prepared to pass the resolution, but the Government of India in its turn must be in a position to fulfil all the obligations flowing from such a decision. You will perhaps agree that in the event the Government of India declare that the decision of the Constituent Assembly is irrevocable, the consideration that would weigh with it would be that it would come into conflict with the U. N. O. It is not in a position to withdraw the case. The alternative for India would be to withdraw from that organisation and bear the odium of all other members. The question is whether India is in a position to stand in isolation particularly when all the sympathies of foreign powers would be on the side of Pakistan. In this condition of isolation, the risk of an armed conflict cannot also be over-ruled.

In case the Government of India is prepared to take such a step in order to maintain the validity of the Constituent Assembly's decision, the decision can be taken without loss of much time. But if this cannot be done, may I ask what goodwill the resolution of the Assembly do if the political uncertainty about the State's future continues even after this ? The fulfilment of a mere formality would not satisfy those who are anxious for a permanent settlement of the question.

Apart from the consideration stated above your suggestion of using the Constituent Assemly as a means to finally ratify the accession would clearly appear as a back-door solution of the problem. Far from that, we suggest this solution only because necessary

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conditions for an impartial plebiscite have not been provided so far. I have no doubt in my mind that if those conditions are forthcoming and the necessary atmosphere for recording the will of the people is created, the decision is bound to be in our favour.

You are not perhaps unaware of the attempts that are being made by Pakistan and other interested quarters to force a decision by disrupting the unity of State. If we have been able to stand our own against this hostility, it was precisely because we were keen to maintain the stability of the State by emphasising the need for unity. Once the ranks of the State's people are divided, any solution can be foisted on them. But you do not seem to realise clearly how this unity can be achieved. While agreeing that the balance in the State should not be disturbed, you at the same time plead for the acceptance of the demand of the Praja Parishad, for the complete merger of Jammu irrespective of what happens to the rest of the State. You even believe that this course would compel Pakistan to give up its claim finally. I have not been able to understand how this victory can be achieved. We cannot ignore that the activities of the Praja Parishad, which you justify, are meanwhile working as a dangerous influence against the integrity and unity of the State. You cannot be unaware of the possible repercussions in Kashmir as a result of this agitation which is led by a militant Hindu leadership and which in the past has made its attitude towards the Muslims amply clear. If the agitation grows, unforseen forces may be released which would seriously

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threaten the foundations of the State. I cannot persuade myself to think that you want to solve the Kashmir problem through disintegration and chaos.

I do not know how the present constitutional position of the State can be adjusted with a demand for merger. More than anyone else, you are quite familiar with this position. Whatever has been done by the Government here is strictly in conformity with the Indian Constitution. And yet you speak about this position in a manner which suggests that we have been flouting the Constitution. It is painful for me to note that even a person of your eminence should have been carried away by an emotional slogan like *ek pradhan, ek bidhan, ek nishan*. You seem to think that we are opposed to these symbols. By virtue of the State's accession and its constitutional relationship with India, all these symbols are supreme as much in our State as in any other. If internally there have been some variations in the policies of the State Government, it is precisely because the right has specifically been conceded to the State by the Indian Constitution. This arrangement has not been arrived at now but as early as 1949 when you happened to be a part of the Government.

It appears that you have not realised the implications of this constitutional position. I am sending with this letter a note which has been published by us. I hope you will give some thought to this aspect of the question so that you can appraise dispassionately the rights and obligations of the State Government as laid

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down by the Constitution. There is no vaguenessab out this position and the specific provisions of the Constitution form the foundation upon which the relationship of the State with India rests firmly. When talking about the constitutional aspect it is sometimes conveniently forgotten that the Praja Parishad wants that Article 370 should be expunged from the Constitution. *So far as we are concerned, we have maintained that the special position accorded to the State can alone be the source of a growing unity and closer association between the State and India.* The Constituent Assembly of India took note of the special circumstances obtaining in the State and made provisions accordingly. But, if the basis of this relationship is sought to be altered, certain consequences are bound to follow for which all of us must be prepared.

In this connection, it is worth while to remark that many of the parties who are at present supporting the Praja Parishad are not satisfied with the present pattern of the Indian Constitution. Some of them have demanded openly that it should conform to Hindu ideals. Others have been equally enthusiastic about their respective party flags. One such spokesman has recently said that his party would strive for replacement of the present national flag by a bhagwa flag. All these parties and elements are at the same time backing up the Praja Parishad agitation for what is called *ek bidhan, ek pradhan, ek nishan.* Such convenient devices may move some people for some time but there can be no doubt that the loyalty of many

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of these supporters of the Praja Parishad to the Constitution and its symbols is doubtful.

You have mentioned the agreements and complained that there has been delay in implementing them. This needs a clarification. You support the Praja Parishad demand for complete integration of the State or a part of it with India. In that case there can be no talk of the present agreements as these agreements concretely confirm the special position which has been granted to the State by the Constitution. The Praja Parishad has always opposed this and the present agitation has been started for the purpose of doing away with this special position which the State enjoys at present. I do not know what to make of this contradiction.

So far as we are concerned, we are committed to these agreements and all the decisions will certainly be implemented. But you have not perhaps considered that we had hardly implemented one of these decisions, *viz*, the election of the Sadar-i Riyasat, when the Praja Parishad launched the agitation precisely against this decision which formed a part of the agreements. The Praja Parishad has made it clear that it is totally against the agreements and you have endorsed this view publicly. I do not know whether in view of this opposition, complaint in regard to the delay in the implementation of the agreements is justified. The problem is simple. If the Praja Parishad is for speeding implementation of the agreements, it would have to accept what has been conceded

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by the Constitution, viz, that the State has a special position in the India Union. In case this is not accepted, it would naturally mean that the agreements are also not acceptable and that the Indian Constitution is sought to be amended so as to take away the special status of the Jammu and Kashmir State. I wish these two aspects were not confused.

Since you have referred to the agreements, may I say that on our side there has been no delay. The agreements, as you know, were arrived at in July last year and ratified by the two Houses of Parliament early in August. On August 11, the State Constituent Assembly ratified them and soon after, the issue of the election of the Sadar-i-Riyasat was taken up with the Government of India in order to have necessary adjustment effected in the Constitution. This took a long time as legal experts of the Government of India examined the question of procedure and this dragged on till 16th November. It was only on 17th November that the State Assembly elected the Sadar-i-Riyasat. The Sadar-i-Riyasat had hardly moved down to Jammu on 22nd November when the Praja Parishad launched its agitation, starting with black-flag demonstrations against the Sadar-i-Riyasat. The situation has since been such as to engage the entire attention of the Government for the maintenance of law and order. Naturally we cannot be expected to sit down to constitution-making under these abnormal conditions.

I wish you would understand this position. May I ask whether such delicate issues can be solved under coercion or intimidation? However, I have no doubt

in my mind that the trouble does not lie with any delay that may have or may not have occurred in taking decisions according to the agreements. The source of the conflict is basic and, as admitted by you it lies in the uncertainty in which the fate of the Sttae is hanging at present. We voluntarily offered to associate ourselves with India and without compromise of basic principles we like this association to be abiding. But unfortunately, the Paraja Prishad wants a decision for the Hindus of Jammu in mid-stream. The feeling of anxiety which prompts some people to desire an early decision is understandable but the manner suggested for bringing it about is fraught with grave consequences. I do not know if the charge of separatism is deserved by us at the hands of those who would themselves like to partition the State on communal basis. The Praja Parishad leaders have made it clear that they will not rest till they have rid Jammu Hindus of what they call the hunting fear of Muslim domination of Kashmiris. To such an attitude, what answer can I offer?

For over two months now, ever since the Government moved down to Jammu, it has been facing grave and persistent challenges to its authority with the avowed purpose of disrupting the administration. These have culminated in open acts of violence and lawlessness. Public utilities have not been spared and public servants are assaulted and threatened in broad daylight. The consequent effect of this terrorism and lawlessness can well be imagined. The work of conducting normal administration has been made extremely difficult. Trade and Commerce have been

seriously affected. The agitation has increasingly attracted the participation of many anti-social and lawless elements.

In face of grave provocations, the Government has exercised great restraint and forebearance. No Government charged with the responsibility of administration can function effectivelly without affording protection to its servants, public institutions and property. We had either to take suitable measures to restore law and order or surrender to the lawless elements. Even the authorities were, with considerable reluctance, compelled to use force on certain occasions when other methods failed to bring the situation under control. It has been established by impartial testimony that the conduct of the authorities has not been high handed or excessive. The judicial enquiry into Chhamb happenings conducted by a senior judge of the State, Mr. Brijnandan Lal, has justified the manner of handling of the situation by the authorities there. In his findings he has observed:

"The police party was out-numbered by processionists and the tehsildar—magistrate apprehending imminent danger to life and property ordered fire to be opened. In these circumstances, I find that there was ample justification for ordering fire for dispersal of the unlawful assembly. In view of the grave and imminent danger to life and property, firing was even justified in self-defence".

You write about the Jammu situation in a way which would suggest that the agitation by the Praja Parishad has been the result of repression by the Government.

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I may assure you that we have never believed in the use of repressive measures against popular movements. But it should not be ignored that here in Jammu the agitation is not even remotely related to the basic problem touching the lives of common people. The Praja Parishad, using the weapon of violence, is trying to overthrow all the vestiges of an ordered Government. Any slackness on the part of the authorities would surely result in anarchic conditions.

You have referred to some grievances and allegations of discrimination against people of Jammu. I would have welcomed if you had sent them to me. This would have given me an opportunity of finding out as to where our administration had erred. I cannot claim that our administration is perfect, but if errors are pointed out to us concretely we shall be too happy to rectify them. None of us suffers from any false sense of prestige.

But I have on my own considered this aspect thoroughly. In this connection, a detailed examination was made to see if there had been unwittingly any discrimination againt people of Jammu. I am sending a copy of a booklet which we have brought out to clear such an impression. I hope you will go through it with profit. As a matter of fact, if there has been any discrimination it has been in favour of the people of Jammu and not against them.

All the same, you will perhaps realize the magnitude of the tasks that we have been called upon to face. We had to grapple with war conditions, refugees rehabilitation, floods, famines and hosts of other gigantic

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problems. After the disasters of 1947, the paramount need of the State was stability. We had to put all our meagre resources towards this end. The generous assistance that we have received from the Government and the people of India has been a source of great strength to us in this ordeal.

In view of these stupendous tasks, we do not deny that many problems still need our attention in Jammu as well as elsewhere. The Government is anxious to find ways of solving them. Whenever an opportunity occurs, the Government acts on its own initiative. As you may have learnt, it has recently set up a committee under the Chairmanship of the Chief Justice Mr. Janki Nath Wazir, to report on the working of some measures which the Government has adopted during the last five years. The Government will certainly devise suitable remedies in case the Committee finds that there are gaps or loopholes anywhere. The Government are eager to have constructive suggestions from all well-wishers of the people as well as their assistance and co-operation. We are keen to secure the maximum good-will of the people towards the measures which the Government undertakes for the benefit of the common people.

I note the reference to N. W. F. Provinces in your letter. Your fears of the result of a general plebiscite seem to arise from the 'tragic fate' that befell that Province. I regret to have to say that this reference is far from fair to the great movement which was built there by Khan Abdul Gaffar Khan under the inspiration of Gandhiji. The tragic results of the referendum

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in Frontier Province were not, as everybody knows by now, due to any weakeness in the Nationalist movement in that Province but to the circumstances which made a gift of it to Pakistan. The Frontier Province was first completely isolated from the rest of India and then the people of that unfortunate Province were asked to make their choice between India and Pakistan—exercise of the choice in favour of the former being impossible. In spite of these adverse circumstances Pakistan won the referendum by bare majority.

As regards the people of Jammu and Kashmir State, they made their choice for the secular ideal long before the partition of India took place. They successfully withstood the onslaughts of Pakistan leadership, their temptations and coercion and finally their wanton aggression in 1947. When Pakistan raiders were knocking at the very door of Srinagar, the Muslims of Kashmir offered their bravest sons as a sacrifice to protect their cherished ideals of secularism and human brotherhood. It happened at a time when they had nobody round about to render them assistance, when darkness surrounded them all-round, when their co-religionists were being brutally massacred at the hands of those very leaders of Praja Parishad who now claim their loyalty to the secular ideals of India. Since then the bonds of kinship between India and Kashmir have been greatly strengthened. The bravest sons of India, irrespective of caste, creed or colour, have shed their blood in order to defend the common ideals of the people of India and Kashmir. Millions of our brothers and sisters in India have rendered

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assistance to their hard-pressed bretheren in Kashmir. To entertain the doubts that the Muslims of Kashmir would now give up their secular ideals would be uncharitable, although the statements and the pronouncements made by the leaders of communal parties in India from time to time and inspiration and guidance they are providing at the moment to the Praja Parishad leadership in Jammu, is no doubt giving them a rude shock. But let me assure you and the people of India that the Muslims in Kashmir will not falter from their ideals even if they are left alone in this great battle for secularism and human brotherhood.

Yours sincerely,
(Sd.) S. M. Abdullah

Dr. Syama Prasad Mookerjee M. P.,
77, Asutosh Mookerjee Road,
Calcutta 25.

VII

New Delhi,
February, 5, 1953.

My dear Syama Prasad,

Your letter of the 3rd February reached me yesterday. I have however been so fully occupied by the Governors' Conference that I could only read it today and I am now answering it rather late at night.

Your letter, I suppose, is meant to be an indictment of me and the policy we persue. You can hardly expect

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me to enter into an argument on this subject. If you think that I have persued a wrong policy, I am equally convinced that the policy you have persued in regard to Jammu and Kashmir and certain other matters is completely harmful to India's interests and to the ideals we have always proclaimed. If my life's history denotes failure, that is my misfortune, In any event, whatever I have done has been very much before the public and they can judge me as they like. I am hardly likely to be influenced by the judgement of those who hold entirely contrary opinions and whose objectives are also different from mine.

According to my thinking, the agitation of the Parja Parishad in Jammu is not only communal but is supported by communal and narrow-minded elements in India. I have not a shadow of a doubt that if that narrow approach was adopted in our country as a whole, it would bring disaster in its train not only for the Jammu and Kashmir State but also to the larger interests of India. Believing this as I do, the only course that I can follow is to resist this utterly misconceived agitation. That is our Government's opinion and they propose to adhere to it and persue that policy.

I do not know if your letter is meant to be threat. The agitation certainly, as it has developed and perhaps as it was conceived to be, is a threat to India. I have often stated that the people of Jammu may have, as many people in India have, certain grievances which shou'd be looked into. But it is clear that these grievances have little to do with the real objective of the

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agitation. Indeed, only recently, the Jammu and Kashmir Government have appointed a Commission to enquire into these grievances. If the agitation had been mainly concerned with these, the appointment of this commission would have been welcomed. Instead of this, it has been publicly stated that the agitation will continue.

This leads to the inevitable conclusion that those concerned with this agitation are not particularly interested in any grievances of the people relating to economic and like matters but think in other terms. The question of Jammu and Kashmir has often come up before Parliament and whatever has been done thus far has been done with the explicit approval of Parliament. The agitation, therefore, is against those decisions of Parliament relating to constitutional matters. This agitation also directly concerns itself, as your letter does, with an issue which, you know, is an international issue with all the complications that this implies. Thus we have a certain section of the people of Jammu trying to interfere in international affairs and the foreign policy of India by the agitation and even gaining your support. You will remember that at one stage in Parliament, I ventured to say that a few people in the House were supporting the Jammu agitation. You and a few others challenged this state ment and denied it. I presume that there will be no denial now of what I had then said.

In effect, this agitation challenges the authority and supermacy of our Parliament in a vital matter. It

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also seeks to interfere in international affairs which have far-reaching consequences. I am, indeed, surprised that you should expect me or our Government to countenance any such attempt which strikes at the roots of democratic Government and accepted cannons of policy.

The questions you have put in your letter have been repeatedly answered in Parliament to the satisfaction of the House. I do not propose to flout the decisions of Parliament whose behests I have to carry out as Prime Minister. Evidently your respect for our Parliament and its decisions is not very great. Apart from constitutional and democratic principles, I should have thought that it was apparent to any thinking person that, from a practical point of view, this agitation in Jammu could only profit the enemies of India. It could not possibly achieve even the objectives which the sponsors of the agitation declare. If this is so, then I cannot conceive why this folly should be continued, unless the real objective is something other and different. Gradually one is driven to the conclusion that this is not a normal agitation for the redress of grievances, but is an attempt to start a subversive movement affecting not Jammu only but the rest of India. To that, any Government can only give one reply.

You suggest the release of those who have been arrested and a conference, presumably, with them. Neither the Government of India nor the Jammu and Kashmir Government desire to arrest or imprison

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any person unless circumstances are created which compel them to do so. But when such circumstances exist, they have to do their duty. What you suggest mean, at the present juncture, the Government of India as well as the State Government ceasing to function and handing over authority to those who have challenged them on these basic constitutional issues by an agitation which has become increasingly violent and subversive. We have no intention of abdicating and running away from the duty that has been entrusted to us by the people and by Parliament. It would be an extraordinary thing for this agitation to be carried on and at the same time for those who do so to be given full freedom to indulge in these activities and to be asked in conference. I regret, I am unable to treat the Praja Parished or their associates in this manner. If indeed the agitation continues, it will be for us to consider what other and further steps Government should take in the matter. The larger good of India as well as of the people of Jammu and Kashmir State, with which we have been entrusted, is more important than the wishes of a group of persons who can only think and act in a narrow and bigoted way, and who do not hesitate to do deep injury to India's well-being for the sake of some fancied group advantage.

You say in your letter that you are coming to Delhi this evening and can see me tomorrow morning. I am always prepared, if I can find the time, to see you or others who may differ from me. But I regret that tomorrow and for the next day or two I am completely

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occupied. I confess also that, reading your letter, I find it a little difficult to discover any common ground for a talk. You have stated yourself that it is obvious that we do not see eye to eye with each other on this momentous issue.

Yours sincerely,
(Sd.) Jawahar Lal Nehru

VIII

30 Tughlak Crescent,
New Delhi.
Feb. 8, 1953.

My dear Jawaharlalji,

I received your letter of 5th February yesterday morning. Believe me I had no intention to carry on a protracted correspondence with you unnecessarily. My sole desire was to find out if there was any possibility at all of both sides appreciating each other's point of view and trying to come to an agreement which would be to the good of the country, including Jammu & Kashmir. Apparently you are not in a mood even to understand the views of those who differ from you, far less to talk to them. You have couched your letter with many abuses and I do not propose to reply to them. I am sure in your cooler moments you yourself will regret that you could not reply to arguments,

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with arguments but had only to cast motives upon and make wild aspersions against those who differed from your official policy. The Commission has not roused any hope or confidence. Its terms of reference are narrow. Its composition is defective. It has to work in an atmosphere surcharged with distrust and bitterness. It cannot obviously deal with basic political and constitutional matters.

I and many others honestly feel that the demand on the part of a section of our own countrymen living in the State of Jammu and Kashmir to see that their state is finally integrated with India and is governed according to the Constitution of Free India is not an unpatriotic or disintegrating or communal move. You cannot crush this natural urge by sheer force or repression. If, according to you and Sheikh Abdullah, there are practical difficulties in implementing this demand in full immediately, there are ways of dealing with it so as to create an atmosphere of mutual under standing and confidence, freed from fears and doubts. Matters relating to Jammu and Kashmir have been bungled by the authorities many a time and at many crucial moments a wrong psychological approach had been made by them.

The present movement has been forced on the people because they could get no remedy through constitutional means. This has been a spontaneous movement with widest local support. We never instigated this from outside the state. It was this charge of yours which we repudiated in Parliament and I do so once

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again. Undoubtedly a satyagraha movement is not a normal procedure and should not be lightly resorted to. But what remedy is open to them if they find that their repeated efforts to settle momentous matters on the basis of negotiations do not find any response from the authorities? Even today when they are paying in blood and suffering for what they regard as their birth-right, they evoke no sympathy or consideration from you. In the eyes of yourself and Sheikh Abdullah they are political untouchables. The tragedy is heightened by the fact that they represent a community well-known for its patriotism, bravery and martial strength.

You have talked about democracy. Does democracy mean the imposition by brute force of the will of the majority on the minority? I agree the minority should not as a rule obstruct and create deadlocks. This can and should be prevented in a really democratic State where the majority shows its willingness and capacity to appreciate the opposition's point of view and both are prepared to make rational adjustments for the common good. Parliament is in danger of ceasing to be a democratic forum when this basic approach disappears due to totalitarian tendencies. Parliament is not greater than the country itself and any timely warning sought to be given to the people or to appeal to them against any wrong government policy is certainly no offence against Parliament's authority as such.

I do not know how you can treat my letter as a threat. We have no intention to offer any threat nor

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have we the means to do so. Our struggle, if it becomes inevitable, must be of a non-violent character and intended to record our protest against the official policy which could not otherwise be altered. We can only hope in this manner to rouse public opinion effectively. Who knows it may also help to bring about a change in the minds of yourself and Sheikh Abdullah?

So far as threats and use of force are concerned the entire resources of Government are at your disposal and at that of Sheikh Sahib. From the tenor of your letter it appears that you are determined to use them against your political opponents. Let me assure you, we are ready to face the consequences of your wrath and fury. The arrest of a number of our members and workers in the Punjab yesterday under the Preventive Detention Act is an indication of the things that are to come. It reflects a strange functioning of democracy in our country. The Congress party, Sheikh Abdullah and his party-men and others who support the present Kashmir policy will be given unabated opportunities to carry on their propoganda. Uptil now although meetings and demonstrations have been held throughout India, opposing your policy on Kashmir, there has not been a single occasion where violent methods were adopted or any subversive activities had taken place. Yet according to the democratic principles as operative in India today, the Preventive Detention Act has to be made use of for curbing legitimate political opposition. You talk very often of Gandhism, Gandhian technique and "healing touch" and claim that you and your Government do not believe

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in the use of force or violence but are always anxious to proceed on the basis of discussions and negotiations. It is sad to think that my efforts to persuade you to proceed on your oft-declared principle in respect of a matter which admittedly may have serious repurcussions has falled till now to evoke response from you.

Yon will forgive me if I fail to appreciate your repeated reference to possible international complications as a result of the Jammu movement. No one to day would claim that your handling of the Kashmir problem has enhanced our international prestige or has won for us wide international support and sympathy. On the other hand your policy in this behalf has added to complication both at home and abroad. Statesmanship requires that you should re-examine the whole matter dispassionately, and instead of being haunted by false internationalism firmly create conditions for national solidarity based on a fair adjustment of different view-points and interests. If you succeed in this, it will give you greater strength and prestige even in international dealings.

There is one apparent misunderstanding in your letter which I should correct. You seem to think tnat I had suggested that the Jammu movement would continue and at the same time there should be an order for release of prisoners followed by a conference to be held with Jammu representatives. This is not correct. Obviously if it is decided by you to start discussions with Praja Parishad leaders and others, the movement should not continue during

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such period and should stand suspended. This has been so on all similar occasions in the past, as you may yourself recall from your own experience.

I do not wish to inflict a longer letter on you. I only wish to close this correspondence with my deep regret that your replies have a painful resemblance with similar communications, which Heads of British Government in India, carried away by a sense of power and prestige, used to address while refusing to take note of the manifestation of the will of the people. The only difference is that while we disagree on some vital matters, we are children of the same Mother, and with a little goodwill and toleration on both sides we should have been able to avoid a serious cleavage. If you feel in the country's paramount interest that you should set aside questions of prestige and partisanship and explore the possibilities of a peaceful settlement, our whole-hearted co-operation will be always at your disposal. Even at this late hour I fimly believe this is possible and it is you who can take the initiative.

Your Sincerely,
(Sd.) Syama Prasad Mookerjee

IX

New Delhi,
February 10, 1953.

My dear Syama Prasad,

I have received your letter of February 8th. After reading it, I confess to a feeling that we move in somewhat different mental worlds and the same words have

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different meanings for you and me. You are continually accusing me of making wild aspersions and the like. Your own letters have not been couched in what might be called gentle and persuasive language.

It is patent that my colleagues and I, and I am sure Sheikh Abdullah and his colleagues, do not wish this unfortunate conflict in Jammu to continue. Nothing could please us better than that it should end, not only because it is bad in itself, but, even more so, because it leaves a trail of bitterness and hatred. That conflict was none of our seeking. It may be that some policies pursued by the Government of India or by the Government of Jammu and Kashmir State were not approved of by a certain section of the people in Jammu. I am sure there were other and better methods to adopt to give expression to their views than this method of so-called satyagraha which has resulted in conflict and suffering. I have before me a detailed list with full particulars of over a hundred officers, high and low, including District Magistrates, Superintendents of Police and Constables, who have been more or less seriously injured by the crowds of so-called satyagrahis. That is hardly an evidence of a peaceful agitation.

But, however that may be, nothing would please me better than to put an end to this business. You say that the Commission appointed to enquire into economic and other grievances is defective and its terms of reference are narrow. Further that it cannot obviously deal with basic political and constitutional matters and it has to work in an atmosphere surcharged with distrust

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and bitterness. I entirely agree to the last two propositions about the basic constitutional matters and the atmosphere. How is one to improve this atmosphere ? Surely by stopping this ill-advised movement and facing these economic and like problems. The alternative is, not to appoint a Commission till the movement ends. If that course had been adopted, people could have justly criticized us for not taking the right step because of something else that was happening.

As for the composition of the Commission, I doubt if any other type of Commission would have appeared to you to be better. It is an official Commission presided over by the Chief Justice, who can be relied upon to take an impartial view. If non-officials had been appointed, the criticism would undoubtedly have been made that they are not representative. It was better, therefore, to have a high-class official Commission, unconnected with parties and the like.

The terms of reference are wide, but certainly they do not deal with political and constitutional issues. Would you have a Commission sit in judgement over Parliament and decide grave national and international issues? I really am suprised at this criticism.

Whether I have made mistakes in the past or not in dealing with the Kashmir issue on the national or international plane has hardly any relevance in the present context. We have to take things as they are now and to deal with them as such. I fail entirely to understand how these high constitutional matters affecting the whole of India and affecting international

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issues, can be made the subject of a local agitation. Nor do I understand how we can even discuss these matters with some local group, quite apart from the fact that local group is indulging in an aggressive and subversive agitation.

I think, this is important. In effect it means agitation against the authority of Parliament. Certainly Parliament is not greater than the country, but it is normally presumed that Parliament represents the country. Certainly also, a certain group in Jammu is not greater than the country. Is the entire country and Parliament to be coerced by local group in matter affecting the entire country? I am sure that if you give this matter thought you will appreciate that this is a proposition which cannot be advanced. I have to function in accordance with the Constitution of India and under the authority of Parliament. If Parliament decides something which I think is contrary to my convictions in basic matters, then it is my duty to leave my post and let other hold it. In no event can I override decisions of Parliament. Normally speaking, in every State, whether it is the J. & K. State or any other State, in India, the State has the authority and power under the Constitution to deal with certain matters. The Central Government can intervene in some matters and advise in others. It cannot override the autonomy of the State. You are pleased to accuse me of totalitarian tendencies. I have thought that this charge could be relevantly brought against those who wish to impose their will on Prliament and the country as a whole.

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I really do not wish to enter into any argument because, as I said, we appear to move in different mental spheres, I try to the best of my ability to judge of a situation in terms of the objectives that I have in regard to India. I endeavour to work to that end with such strength as I possess. I have no doubt that you wish well to India, but the fact remains that our conceptions of what is well for India appear to differ. Because of this, our past lives have moved largely in different spheres. Neither of us can wipe out or ignore that past which has produced the present. I consider the communal approach to India's problems, or to any other problems, as inherently bad, narrow and injurious to the individual, the group and the nation. You object to my using the word communal and deny my charge. Obviously we think differently and our actions are presumably the result of our thinking.

However, all this does not help much in the present situation I can assure you that I want peace in India with all my heart. That is a prerequisite for any work to be done. But you will not expect me to do something which I consider completely wrong and harmful in the interests of India. If I could venture to advise you, I would suggest that you exercise your influence to put an end to this agitation in Jammu, which cannot possibly do any good and which can certainly do much harm.

Yours sincerely,

(Sd.) Jawaharlal Nehru.

Dr. Syama Prasad Mookerjee, M. P.

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X

30, Tughlak Crescent.
New Delhi.
12-2-53.

My dear Jawaharlalji,

I thank you for your letter of February 10th. It will serve no useful purpose for us to discuss in this correspondence the justification of our both moving in different mental spheres or even to discuss the merits of such spheres. It is my belief that there is and there should be much in common between you and me regarding the real needs of our country. We may however honestly agree to differ in respect of some vital matters but even in this sphere there is no reason why we should not try to understand each others view-point without taking recourse to mutual recrimination or imputing base motives to each other.

I quite agree with you that in the context of Jammu controversy all these discussions are somewhat irrelevant and unreal. The movement should come to an end as quickly as possible both according to you and me. The question is how this is to be done without sacrificing any basic principle.

There is no question of any body coercing the State to decide anything by aggressive and subversive means. The movement has been started because all constitutional means were of no avail even to secure a joint discussion between the parties concerned. You have said that you have before you a list of 100 officers who have been injured by crowds during the last few weeks.

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I have before me a list of typical cases of excesses and atrocities which reflect no credit to the authorities. Apart from these about 30 to 40 persons have been shot dead by police firing. Not one person has been killed on the official side. This certainly shows that whatever crowds might have done, the sponsors of the movement have directed the strict adoption of non-violent methods. However, it is not my purpose to go into these aspects just now. I am equally anxious with you that the present movement should terminate. You have been good enough to ask me to exercise my influence to put an end to this agitation. I am prepared to do so provided you and Sh. Abdullah create suitable conditions for giving effect to it.

The only way this can be done is to make the sponsors of the movement appreciate that you and Sheikh Abdullah are prepared to discuss all matters with them with an open mind and arrive at decisions which would meet their legitimate demands. I would suggest that you and Sh. Abdullah should meet some of the leaders preferably in Delhi. If this offer is communicated to them, they will, I hope, agree to suspend the movement. If on the other hand you feel that this procedure may create complications unless some understanding is previously reached regarding the possibility of ultimate agreement on the main issues and withdrawal of the movement, we may have a discussion on the several points raised and see what should be a fair approach to their solution. Naturally I cannot commit the Praja Parishad, but knowing as I do their minds to some extent, I can make some suggestions to you for

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your consideration. If there is a general agreement, I may send a communication to Pandit Premnath Dogra giving him my advice.

The points for consideration are as follows—

1. Finality of accession to India through a resolution to be adopted by the Constituent Assembly of Jammu and Kashmir.

2. Adoption by the State of the provisions of Indian Constitution regarding such matters as Fundamental Rights, Citizenship, Financial Integration, Abolition of customs duty, Supreme Court, Emergency Powers of President and Conduct of Elections. These are to be implemented within a stated time.

3. In respect of the rest of the Indian Constitution Sh. Abdullah should indicate what deviations, if any, he desires to be made. These are to be considered on their merits.

4. Jammu and Kashmir Constitution as finally agreed will be part of the Indian Constitution.

5. Provincial Autonomy to Jammu and Ladakh without change of boundaries.

6. Acceptance of supremacy of Indian Flag.

7. Policy regarding liberation and occupation of the Pakistan-held territory.

8. Commission of Enquiry with a majority of Judges from outside the State to go into all grievances including Dharmartha Trust, excesses committed by Police and compensation to the families of sufferers, specially who have been shot dead.

9. Restoration of pensions, properties etc to people against whom confiscation orders might have been passed.

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None of the matters mentioned above is incapable of reasonable solution if both sides proceed with an open mind. If you feel that my approach is correct, we can have a detailed discussion and decide what course of action should be taken in the best interest of Kashmir and the country as a whole.

You and Sh. Abdullah can well rise equal to the occasion without standing on false prestige and create a new atmosphere which will make it possi ble for all parties irrespective of other differences to put forward our national demand on the Kashmir issue. I hope you will appreciate the spirit in which the latter is written and take action to bring the impasse to an end.

Yours sincerely,
(Sd.) Syama Prasad Mookerjee

XI

New Delhi,
February 12, 1953.

My dear Syama Prasad,

Thank you for your letter of the 12th February.

I am always prepared to meet you and discuss any matter. But the points for consideration that you have suggested are most of them hardly capable of consideration even by Government by itself and much less so with non-official organisations or individuals. It is easy enough for the Constituent Assembly of Jammu and Kashmir State to pass a resolution approving of or confirming the accession to India. They can certainly

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do so. But that does not bring finality in the sense that you perhaps mean. That finality is tied up with other considerations which are not wholly within our control. As a matter of fact, the action that the Constituent Assembly of Jammu and Kashmir State has already taken in regard to various matters, more especially in confirming the agreement arrived at with the Government of India, is itself much more than confirming the previous accession. It goes beyond it in many ways.

Some of the matters you have referred to have been included in the Constitution that is being formed by the Constituent Assembly of J. & K. One cause of delay in doing this has been, I imagine, this agitation itself which has made it difficult for the Government of J. & K. State to expedite these matters.

It has been stated very clearly and on occasion acted upon that the Indian Flag is supreme.

Regarding the policy for the liberation and occupation of Pakistan held territory, this is surely not a question that can be discussed, as it depends upon all kinds of political and military matters. You will appreciate that no Government, however powerful, can do just what it wants to do. There are limiting factors. Even the great powers cannot do what they want to do and therefore come in conflict, with each other and a deadlock, threatening the peace of the world, continues. Indeed the Jammu agitation has made it much more difficult to deal with the question of the Pakistan held territory, because it must have created far reaching

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repercussions on the people there. We do not think in terms of holding any territory by force of arms and have to rely on the good will of the people concerned.

Even in States other than Jammu and Kashmir, we have to respect Provincial autonomy and, though we give advice to our colleagues there, we do not interfere. No State Government can carry on if it is over riden by the Central authority.

I am sure that the right course is for this agitation to be withdrawn and an attempt made on all sides to bring about normality and good will. That is the basis of any progress and removal of grievances or disabilities.

You are no doubt aware that at the present moment conversations are being carried on by our representative, Girja Shankar Bajpai, with Dr. Graham and the Pakistani representative in Geneva. In international affairs of this kind no country can take up an attitude of dictating terms. Even the greatest cannot do it and we have to proceed cautiously and with patience and and at the same time firmness in so far as our principles are concerned. You can imagine the effect of the present Jammu agitation not only on those hostile to us but also in other countries and more especially on the conversations taking place in Geneva.

Yours sincerely,
(Sd.) Jawaharlal Nehru.

Dr. Syama Prasad Mookerjee, M. P.

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XII

30, Tughlak Crescent,
New Delhi,
February 13, 1953.

My dear Sheikh Sahib,

I received your letters of 4th February and 5th February, some days ago. Meanwhile I have had further correspondence with Shri Nehru, copies of which I enclose. I must thank you for the frank and detailed manner in which you have put your view point. I have also glanced through various pamphlets that you have sent me and tried to appreciate the points which have been emphasised on your behalf.

You have referred to my talks with you at Srinagar some months ago. Although I have not found myself in agreement with your approach to some of the basic problems, I have tried to appreciate your view point and also the difficulties that lie in your way. If we start doubting each other's motives and reduce the controversy to mutual abuses and vituperations, we can expect no solution at all. From this point of view I have failed to appreciate some of your recent speeches, where you have dubbed your critics as traitors and enemies of the country.

One fundamental point where I differ from you is your attitude towards the Praja Parishad. You will remember, when I met you at Srinagar, I implored you to realise the depth of the feelings in Jammu and to

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take the initiative to allay all fears and doubts in peoples minds. I advised you not to adopt an attitude of non-cooperation towards the Praja Parishad, or to allow the breach to grow. You, however refused this advice on the grounds that first, it had no following and secondly, its past was so black that you could never associate with its spokesmen. Regarding the first point your estimate has proved incorrect. The movement launched by the Parishad and the manner in which it has spread amply indicate that it has a large following. In any case, it has been able to rally together various sections of the people who you thought would never support this organisation. As a democratic leader you have got to recognise the strength and influence of your political opponents. Regarding the second point your refusal to negotiate with the Parishad on account of its alleged past activities, is hardly tenable.

History records many examples where such an attitude led to disastrous consequences. Let us recall what happened in India or even in the State of Jammu & Kashmir. Could the British Government stick to its determination not to come into association with the Congress which had defied the authority of the British rulers? Did not Gandhiji and others go out of their way to attempt to come to a settlement even with Mr. Jinnah and others whose attitude towards national problems was far from patriotic? What happened in your own case? Although you raised the standard

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of revolt against the Mr. Maharaja, did you not both meet on a common platform at the time of national crisis and did you not even offer loyal co-operation to him for the future good of the State and of the country? It is not safe to base one's present attitude towards grave political issues solely on past relation ship with one's opponents. I do not know intimately about your past, but I have seen some papers and documents. You yourself started as a leader of a communal party. Even important British Officers expressed their unconcealed anxiety to utilise you and your movement for bringing about the end of a Hindu Maharaja's rule, yet it would be highly improper to judge your present aims by making elaborate researches into your past history starting from the days of Aligarh.

Whatever you may say against the Maharaja's rule or against any aggressive Hindu sentiments of some others, the fact remains that in the time of this very Maharaja when many parts of India were ablaze with communal fury and passion leading to all sorts of atrocities during the fateful period prior to independence, the State of Jammu & Kashmir was wholly free from such ugly outbursts. At that time your political movement was going on unabated and you had no place in the administration of the State. Let us not go into all this past history. Many things happened in 1936 & 1947 for which responsibility did not always lie on anyone party or community in particular.

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Actions produced re-actions and we got caught up in a vicious circle. We have to forget that chapter, although we may have to bear the lessons of that great tragedy in mind so as not to make mistakes in future. Our main approach must be based on a genuine desire to treat each dispute solely on its merits and try to come to an agreement.

I did not conceal from you my regret at the manner in which you and some others had been delivering speeches and making statements attaching the Dogras. Circumstances had placed you in charge of the destiny of your State and you could well rise equal to the occasion creating faith and confidence in the minds of all sections of the people living in Jummu & Kashmir. The Dogras were the rulers of t2e state for generations and the position had suddenly been reversed when you came into power. I did not like the manner in which you went out of your way to speak in abusive terms of the Maharaja, although you had assured him in writing of your full support, cooperation and even loyalty. when through his action and decision you came to possess full political power. Apart from the soundness or otherwise of the system of hereditory rulership in the modern set-up, this attitude of hostility towards the Maharaja, who by dint of his own decision, became political powerless, was indeed unnecessary. But when some times this overstepped its limits and extended itself to an attack on Degras as such, it became a source of dangerous developments. I had, therefore,

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earnestly requested you to take all possible steps to create a new psychological atmosphere in the state so that spontaneously all sections of the people might regard you as their acknowledged leader in whose hands their interests were absolutely safe. When I was in Jammu I saw the intensity of feelings against your administration and also how doubts and fears were being kept unsolved. I acknowledged at that time, and I do so without reservation even today, that inspite of tremendous difficulties you had courageously proceeded to challenge the basic theory of the establishment of Pakistan. In this respect a great experiment was being made which could not be carried into fruition by India's national leaders themselves whose weak-kneed policy led to the vivisection of the country. I paid you tributes for this great work. But I warned you in private and said so in public that in your dealing with the situation, by words and deeds, you should not encourage tendencies of separatism, nor ignore Jammu's special problems. I communicated my impressions to Shri Nehru on my return from Jammu and Srinagar. If both of you had been moved in the matter, perhaps nothing would have happened.

As a first condition for ending the present impasse which is not good for anyone desirous of the well-being of India as a whole I would beg of you not to stand on false prestige but to agree to discuss all disputes with the leaders of the Parja Parishad even at this late stage. If you do this no one will charge you with weakness, but will readily recognise your statesmanship and robust realism.

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Your letter deals with legal and constitutional points. I do not minimise their importance, but they are not the ultimate factors for settling big controversies which can be solved only with a human approach. You have quoted a few extracts from various speeches and statements of your critics and tried to show their inconsistencies. Some of them are taken from C. I. D. reports, others are quoted out of their context and still others are mere passing references. I can similarly quote extracts from your speeches and statements and indicate serious inconsistencies, but that is not the point at issue. One of the main points is how to settle finally and irrevocably the question of accession of Jammu and Kashmir with India. You and Mr. Nehru sometimes make strong speeches declaring that the State is already a part of the Indian Union and therefore, there need be no dispute about it. What I want is that constitutionally this question has to be settled once for all and the sooner it is done the better for all concerned. It has been said that this question has to be decided according to the will of the people of Jammu & Kashmir. This treatment had not been specially offered to your State. Due to the subtle and ingeneous policy pursued by the British Govt. in 1947 all the 500 or more Indian States, as they were called, became in theory independent units and the British Government insisted that their union with India or Pakistan must be on a voluntary basis. They were not satisfied by breaking what was one great political entity, namely, undivided India into India

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and Pakistan. They were anxious to sow the seeds of further disruption by creating a myth of sovereignity in respect of about 500 small and large units within India, then known as Indian States. The Congress was forced to accept this position and from that time onward began the difficult and delicate task of absorbing these States into the structure of free India. Thanks to the statesmanship and dynamic personality of Sardar Patel, this great task of integration was completed in a bloodless manner, in all cases, with three exceptions, Jammu & Kashmir, Hyderabad and Junagarh. Ultimately Hyderabad and Junagarh were also brought into India. All these states had the same theoretical rights as your State to decide matters for themselves. But they came into India not only in respect of the three subjects of Foreign Relations, Defence and Communications, but also with regard to others and there thus developed one pattern of Indian constitution for the whole country.

Finality of accession could not be settled in your case because of war with Pakistan. How is this formality of ascertaining the will of your State now going to be declared ? My own practical suggestion has been that the Constituent Assembly which you have formed on the basis of adult franchise should decide this question and India should accept this decision. You have tried to ridicule me by saying that this suggestion is hardly tenable with the Praja Parishad's challenge of the validity of the elections specially in

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respect of Jammu. You and Mr. Nehru have repudiated this challenge. You cannot, theretore, have it both ways. You are in power today and you are proceeding on the basis that the Constituent Assembly is fully representative. Your opponents also invite you to pass this resolution and then they at least will not be able to question this decision in future. Then there remain possible implications of such a decision in relation to U. N. O. and Pakistan. In my humble opinion neither of these has anything to do with the question of accession. India went to U. N. O. not on the issue of accession, but in respect of aggression by Pakistan on India which included Jammu & Kashmir. Here India's case has not received a fair deal at all. True, India gave an assurance to U. N. O. that final accession would be determined in accordance with the will of the people. If that will today is expressed through a Constituent Assembly elected on adult franchise basis, no one logically or legitimately could challenge such a decision. The importance and urgency of this step cannot be minimised. Once it is known that this matter has been finalised, all doubts and fears about the future would disappear and all elements can jointly march forward for the rebuilding of the State of Jammu & Kashmir irrespective of all differences.

The next important question is with regard to the subjects in respect of which accession should take place. Here your elaborate interpretation of Article 370 and your claim that you enjoy "residual sovereigni-

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ty'' which has not been granted to the rest of India, create unnecessary friction and dangerous complexities. What is the demand of the Praja Parishad and indeed what is our request to you? Pray accept the consti tution of free India and make it applicable to the State of Jammu and Kashmir just as has been done with regard to all part B States. Is there anything communal or re-actionary about such a request? Even here I have offered a compromise formula and I see no reason why it should be unacceptable to anybody. There are certain basic provisions of the constitution which must be applicable to the whole of India. They relate to fundamental rights, citizenship, Supreme Court, President's Emergency Powers, financial integration including abolition of Customs -Duty, Conduct of Elections, and National Planning. In regard to some of them you have agreed to accept the Indian constitution either as it stands or in a modified form. Please accept the relevant provisions in toto. Regarding land you may have a special provision. In regard to other matters you may take some time and prepare a comprehensive memorandum indicating in what respect you desire modification of the provisions of the Indian constitution. This you have to justify as essential in the best interests of your State which will not be harmful to the maintenance of India's unity and solidarity. Your proposals can be considered dispassionately and decided on merits by mutual consultation. I am not suggesting that the constitution is so sacrosanct that none of its provisions can be altered if our country's needs demand this.

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Instead of proceeding in this rational manner you have shown tendencies of creating a separate status for yourself and for your State. The provision for an elected Head and a separate flag, has to be examined from this stand point. The flag is the symbol of unity. Your reference to some speech made by some Opposition leader declaring that the present flag would be replaced by a '*Bhagwa*' flag shows you have not appreciated the stand point of those who are opposed to a separate flag for Jammu and Kashmir alone. No one has said that there will be a Bhagwa flag in some State where the party advocating it will be in power and in the rest of India there will be one or more flags according to the desire of the particular party that may be in power in each such State. If the design of the National Flag is at any time altered according to the will of the representatives of people, it will be applicable to the whole of India. It will create no separatism or disunity. But if each State starts having its own flag, according to the wishes of the party in power, then it will be a blow on India's national and political unity. And that is what you have sought to have done.

You call yourself as the Prime Minister of Jammu and Kashmir. There can and should be one Prime Minister and he is the Prime Minister of India as a whole. In all other States the first executive citizen is known as Chief Minister, but you must have a separate nomenclature for yourself! The head of your State must be known as Sadar-i-Riyasat (President).

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India can have only one President and that is the President of India. Other Heads of States may be known as Governors, Rajpramukhs or by any other name as the constitution may provide. There can not be a republic within a republic. There can be one and only one Soveriegn Parliament and that is the Parliament of India. Consciously or unconsciously you are creating a new sovereignity for Jammu and Kashmir State. India has been torn into two by the two-nation theory. You are now developing a three-nation theory, the third being Kashmiri Nation. These are dangerous symptoms and are not good for your State or for the whole of India.

I have seen no logical statement of yours as to why the Indian constitution should not apply to your State. Your only reply has been that if this is hastened, Muslims of Kashmir may lean towards Pakistan. I do not ignore the need for creating an atmosphere of complete understanding and confidence in the minds of Muslims. But there are limits within which such attempts must be kept confined, nor such attempts should be made in a manner which may cause grave doubts and fears in the minds of non-Muslims living in the State and forming a definite minority. I regret at many stages the possible re-actions of your policy on their minds has completely been ignored. If the bogey of Muslims ceasing to trust India and going away to Pakistan continues unchecked, it will create the same complications as Mr. Jinnah's stand did. India is governed according to one constitution which is not based on any communal or sectional considerations. If four crores of Muslims in India

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can be expected to live with safety and in honour under this constitution why should 30 lacs of Muslims in Kashmir who will be the majority community in their State, be in a mood to go out of India, unless they honestly feel that their future lies with an Islamic country such as Pakistan. Secular democracy cannot develop by following the methods of the market place. It is my earnest belief that time will realise that the division of the country on religious basis has not helped any community, but has only put back the hands of the country's progress. I want you to work in a spirit of statesmanship at the head of the entire State of Jammu and Kashmir including our lost territory, enjoying the willing confidence of all parts of the State and making it one of the foremost defenders of Indian unity and freedom.

The explaination you hae given for the delay in implementing your agreement with Mr. Nehru reached in last July, is really very weak. In November 1952, i. e. four months after the agreement you could see your way to implement only those portions which were to your liking and which provoked widespread opposition since it drew away the State further from the common pattern of the Indian constitution. I see no justification for the delay in implementing the rest of the agreement. If some formalities had yet to be completed, you might have easily waited for a month or two more and not implemented the agreement piecemeal. You see that we and others do not like the agreement and so its implementation or otherwise should make no difference with us. This

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is a cheap argument and an entirely wrong approach to the problem. We feel that the agreement regarding the application of some provisions of the Indian constitution to Jammu and Kashmir is capable of being improved and extended further. But it is certainly better than your doing nothing at all in this direction and as such none would have opposed such implementation.

I have been reveiving serious reports of atrocities and excesses being committed on the people of Jammu. It is not possible for me to check such reports. I wanted to send a small fact-finding delegation consisting of responsible persons, three of whom were legislators, but they have been refused permission to enter your State. It is a strange position that we cannot enter a part of the Indian Union without special permit. Repression, bullets and jails will be no solution to the problem. The movement is spreading deep and bitterness and resentment are on the increase. Normally such a movement should not be started. But it was forced on the people since yon and others deprived them of all constitutional means for settling their grievances. You will have to probe into the root causes and try to bring about an honourable settlement.

I have not referred in detail to the charges against your administration. The relate to some economic matters, rehabilitation, discreminatory policy etc. Your re-division of the border districts has not been a wise one. Whatever the reasons might have been, the result has been a communal division of some of those areas.

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This is possible of serious development. Your memorandum gives no answer to this charge. This could have been easily avoided and a division on non-communal basis could have been made. In any case you have always expressed yonr readiness to inquire into any allegations against your administration. If a Commission is to do this its personnel should be beyond the influence of State authorities and its term of reference must be wide enough.

I have not also referred to the future pattern of your consttiution. The desirability of giving autonomy to Jammu as a whole and to Ladakh and Kashmir Valley can be discussed on its merits at a later stage. What is needed now is to bring the movement to speedy termination and to create proper atmosphere for future collaboration. You must take the initiative and in this respect my services are always at your disposal. If at any time you feel that you want me to help you to bring about a satisfactory settlement, forgetting all past controversies, I shall be most happy to be of any assistance to you. But far better than anybody's intervention, you should yourself invite Jammu representatives to a conference where you and Mr. Nehru should be present. Please see my letter of yesterday's date to Mr. Nehru in this connection. It is only if we are all united on the Kashmir issue—and there is no reason why we should not—that we will be able to preserve the unity of Jammu & Kashmir and also take steps for the recovery of the one-third territory of the

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State which, to our national humiliation, is still in the hands of the enemy. Believe me, I am most anxious that the present atmosphere of distrust and bitterness should come to an end. The initiative lies in the hands of Mr. Nehru and yourself. Do not pray imitate the British rulers and stand on false prestige. With toleration and understanding and with a determination not to repeat the tragic folly that led to the division of India, let us solve the present deadlock in a manner which will be to the benefit of Jammu & Kashmir and of India as a whole.

Yours sincerely,
(Sd.) Syama Prasad Mookerjee

Sheikh M. Abdullah,
Chief Minister, Jammu & Kashmir.
Jammu Tawi.

XIII

30, Tughlak Crescent,
New Delhi.
February 14, 1953.

My dear Jawaharlalji,

I thank you for your letter of the 12th February.

I believe the issues have been narrowed down to a considerable extent and is we really so wish, we can bring about an early and amicable settlement. The specific points which I mentioned in my letter arise out of fears and doubts in the minds of the people of

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Jammu. The manner in which these should be dispelled would depend on a frank discussion with them. What you and Sh. Abdullah have to decide first is whether you are willing to talk to them. I would implore you to do so. You have said that the right course is for the agitation to be withdrawn and an attempt made on all sides to bring about normality and good-will. The question is how to get this done. When a movement goes on and the sponsors believe that they are struggling for a right cause and have undergone sacrifice and sufferings including loss of lives, any approach for settlement must proceed on humane considerations based on mutual understanding. I do suggest, therefore, that both of you should agree to meet some selected representatives of the Praja Parishad and this should be followed by an immediate suspension of the movement. The process of bringing about normality and good-will will then, I trust, automatically follow. If their view-points are met in a fair and just manner, there is no reason why they should not heartily reciprocate.

I mentioned certain specific points in my last letter so that you might know the matters that you would have to deal with. I do not wish to reply to your letter in detail, but may just indicate a few aspects of the points you have raised. The first point relates to the finality of accession. This a vital matter not only for Jammu but for the entire State and indeed for the whole of India. I earnestly urge you and Sh. Abdullah to accept the suggestion that I have made and permit a resolution supporting accession to be

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passed by the J. & K. Constituent Assembly. What ever may be the nature of the obstacles that we will have to face from U. N. O. & Pakistan, our position will not be weakened by this step, on the other hand within India and Kashmir you will have one solid opinion supported by all parties. Really speaking accession was not the issue on which we went to U. N. O. If today U. N. O. desires to know how the will of the people is going to be expressed, we can certainly justify our reply that this will has been expressed through the Constituent Assembly and the matter is settled as between India & Kashmir. The stalemate with U. N. O. & Pakistan may still continue and may have to be settled in some other way later on.

I admit that such a declaration may be injudicious just when talks are going on in Geneva. If however, an assurance to this effect is given to the Jammu representatives, I shall myself ask them to be satisfied with this and not to press for any open declaration at this stage. This may be given effect to in normal way after the Geneva talks have come to an end.

Regarding liberation and re-occupation of Pakistan held territory also, no public declaration need be made but a fuller appreciation of the situation can be made as a result of your discussion with the people concerned.

If, as you say, the Indian flag is supreme its daily official use may be agreed upon exactly in the same manner as the flag is used everyday throughout the country. The State flag may be used in addition on special occasions.

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Regarding the applicability of the provisions of the constitution, we should set aside all technicalities and agree to proceed in a practical manner. As you are aware your agreement with Sh. Abdullah has got to be amplified, as a number of points on which general agreement was reached have not been clarified, I do not think we will have any difficulty in agreeing to the minimum number of subjects which will be immediately applied to J. & K. As regards the rest, we may postpone consideration till we know what specific proposals the State authorities have to make for the purpose.

As regards grievances and other local matters Sh. Abdullah has repeatedly declared and has written to me also stating that he was willing to have an independent enquiry. The only question is to prepare comprehensive terms of reference and have a tribunal which will enjoy the confidence of all concerned. Release of prisoners and withdrawal of bans and punishments need not present any difficulty.

I do honestly feel that the situation can be tackled if all of us proceed with a genuine desire to create a new atmosphere. Believe me I share your view that the continuance of the movement or its extension to any parts of India may have serious repercussion. My genuine anxiety has been to find out if this can be avoided at all. Your last letter gives me hope that is not beyond the range of possibility. You and Sh. Abdullah have powers of Govt. in your hands and naturally constitute the more dominant party. Without sacrificing principles, you can certainly proceed in

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a spirit of generous understanding and create an atmosphere where all of us inspite of other differences can agree to present a united front on the Kashmir issue.

I am leaving for Calcutta early tomorrow morning and shall be back here on Monday afternoon. I am willing to come and see you sometime today, if you feel that at this stage a personal discussion may be helpful. You will have to communicate your views to Sh. Abdullah or even before you finalise your views you will have to consult him. I wrote a letter to him yesterday in reply to his last letter and have given him copies of my correspondence with you. I could not send him your letter of the 12th February as it had not then reached my hands. I shall be glad to come and see you any time today that suits your convenience except between 6 & 7-30 P.M.

Yours sincerely,
(Sd.) Syama Prasad Mookerjee

Pt. Jawaharlal Nehru,
Prime Minister.

XIV

New Delhi,
February 15, 1953.

My dear Syama Prasad,

Thank you for your letter of February 14. I was so very busy yesterday that I did not read your letter till late at night. It was only then that I noticed

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that you had suggested our meeting in the evening. It was too late then and you have now gone to Calcutta.

There can be no two opinions that we are all anxious to bring about normality in Jammu and to put an end to this deplorable agitation and conflict. But many of the questions you have raised in your letter are so far-reaching and complicated that they cannot be considered in a casual and hurried way. In so far as some of them are concerned, we have arrived at decisions after very full and long argument between the Government of India and the Government of J. & K. State and it is not quite clear to me how we can discuss them, except when the time comes, as between the two Governments.

As I pointed out to you, every state normally deals with these problems itself and the Central Government does not intervene except by way of advice occasionally. Any other course would not only be rather against our constitutional procedure but would come in the way of the responsibility of the State itself.

The Constituent Assembly of J. & K. State will be meeting some time in the near future. It will, presumably, consider the reports of certain Committees appointed by it. Those committees are now sitting. I do not see how even the Kashmir Government can bypass all this procedure. As for the Constituent Assembly passing a resolution supporting accession, it can certainly do so if it so chooses. As a matter of fact, all its proceedings are based on accession and proceed on that assumption. Nothing more can be

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added to that by a resolution. I have no objection to such a resolution. It is not this point that creates difficulty, but saying that such a resolution finally ends the reference to the U. N. The position we have thus far taken up and publicly stated is that the J. & K. Constituent Assembly has every right to express its views on this as well as other matters, but that the assurances we have given to the U. N. are our responsibility and have to be judged accordingly.

The real difficulty, as I have pointed out to you previously, is the whole background of this business. Whatever anyone's motives might have been, it is undoubtedly of an extreme communal colour with all the disturbances that such an approach leads to. It comes up, therefore, against the basic policies in India that we have sought to follow with some measures of success. Most of the people associated with it have opposed those governmental policies in the past and taken up a line which we consider communal and harmful to the interests of the country. The speeches made in support of this movement have been extreme and even violent and have brought out this basic Communal element. I was deeply distressed to read the reports of the speeches made at last Sunday's meeting in Delhi. Reading reports of those speeches the question of Jammu sank into the background and other major questions of policy were emphasized. Between these two basic approaches, there is no common ground. Subject to our holding fast to the principles which have guided us and to the policies which we have pursued, the Government will gladly

do all in its power to bring about normality and peaceful co-operation in the Jammu and Kashmir State. I am sure that Sheikh Abdullah and his Government hold the same opinion. But this agitation was not of our seeking and the first step should be to withdraw the agitation completely.

Yours sincerely,
(Sd.) Jawaharlal Nehru

Dr. Syama Prasad Mookerjee,
30, Tughlak Crescent,
New Delhi.

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30, Tughlak Crescent,
New Delhi,
February 17, 1953.

My dear Jawaharlalji,

Thank you for your letter of February 15th which reached my hands on my return from Calcutta yesterday afternoon. I have no desire to repeat the points that I have already urged for your consideration in my previous letters. It seems that although we are all anxious to bring about normality and peaceful co-operation in Jammu & Kashmir, we are not agreeing on the procedure to be followed for ending the present impasse.

You have again brought the charge of communalism against your political opponents. I have already refuted it and tried to indicate our attitude to some

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of the basic problems where we may differ from you. When we start talking about mental approach, un related to specific matters, discussions take an abstract turn and imaginary, charges are hurled. Perhaps some day you and some of us against whom you hold this charge of communalism can meet in a quiet atmosphere and have a frank exchange of views so as to appreciate each other's points of view and find out how far your or our approach is harmful to the larger interest of the country and what exactly the issues are on which we disagree. But these considerations are somewhat irrelevant for your immediate purpose. By constantly doubting each other's motives we will not pave the way for bringing the Jammu agitation to an end speedily.

You have referred to certain reports of speeches delivered during the election meeting in Delhi. I had attended only three meetings myself. I have no personal knowledge as regards the detailed speeches delivered on all occasions. Some of the speeches no doubt were strong and there may be honest difference of opinion as regards the approach made by some speakers. But it is not safe to rely on C. I. D. reports or on what might have been conveyed to you by some interested people. Extracts from speeches read out from their context are very often mis-leading. I have received reports of some of the speeches delivered on Congress platforms which indicate not only bad taste but are also false and perverted. I myself heard some slogans uttered by Congress processionists when my car came at the rear of such procession. They were

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provocative and objectionable. I took no notice of them for I know that sometimes party enthusiasm can sweep people off their feet and they need not be taken very seriously. All these no doubt raise important questions regarding public behaviour of leaders and workers belonging to different political parties. There is need for our observing a common decent standard if public life is to develop properly in this country. These considerations, however, do not and should not affect our immediate task of settling the Jammu agitation.

You seem to think that I had suggested that you should immediately agree to make commitments on important constitutional matters without proper consideration of the issues involved or passing through usual procedure laid down for such consideration. Undoubtedly it would be for Govt. ultimately to settle these matters. If however, there are doubts and fears in the minds of the people who will be vitally affected by such decision or if Government's policy in some respects is intensely disliked by such interested people, there must be some means of holding discussions with their representatives and trying to understand each other's standpoint. Normally speaking there is no reason why such talks should not take place with an open mind on both sides and why the Govt. should not agree even to mend its policy in case it is found that amendments are necessary in national interest. There is no question of constitutional technicality here. Of course there are special committees and Constituent Assembly and other bodies that will have to consider

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all these matters. Both in India and J. & K. the power of Govt. is controlled by well-knit political parties which have an over-whelming majority and if any correct decision is taken by the leaders, there is no reason to expect that they will be repudiated by the respective organisations.

The real question is how the movement should be brought to an end. I had suggested a procedure which apparently is not acceptable to you. Unfortunately you have made no alternative suggestion except to repeat that the movement should be withdrawn com pletely. You have added that after this is done subject to your holding fast to the principles and policies which you have followed in the past, you will do all in your power to bring about normality and peaceful co-operation. This you will agree will not help to create an atmosphere for bringing about the settlement. When a movement continues for several weeks resulting in loss of lives and various kinds of alleged oppression and excesses, it cannot be withdrawn unless there is some basis for appreciating that the objectives for which the struggle had been launched would be properly considered by the authorities. You will also realise that it is not for me or for anybody else in India to withdraw the move ment. This must be done by the persons who have started it and many of the leaders are now behind the prison bars. They have to be approached on the subject and some idea has to be communicated to them of what is to happen in future.

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After considering the matter fully and also your determination that the movement must be withdrawn completley as first step, may I suggest the following procedure for your consideration:—

1. The movement is withdrawn.

2. Order for release of prisoners is given and there will be no victimisation.

3. You and Sh. Abdullah call a conference say, after a fortnight where all political and constitutional matters are discussed with an open mind.

4. Both parties reiterate that the unity of the State of J. and K. will be maintained and that the principle of autonomy will apply to the province of Jammu as a whole and of course also to Ladakh and Kashmir Valley.

5. The new constitution to come into force as soon as possible and elections to take place within, say, six months.

6. Question of flag is to be clarified and the Indian flag should be in use every day just as is done in all other parts of India.

7. Implementation of the July agreement will be made at the next session of J. and K. Constituent Assembly after the issue left-vague have been properly clarified. In respect of fundamental rights, citizenship, Supreme Court, President's powers, financial integration, conduct of elections, provisions of the Indian constitution will apply. Exception however, may be made with regard to conditions for acquisition ofl and.

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8. The terms of reference of the commission of enquiry will be widened and all grievances will be examined by it.

9. The commission now includes 4 person, Chief Justice, Accountant General, Chief Conservator of Forest and the Revenue Commissioner. The last three gentlemen are administrative officers under J. and K. State and they can hardly inspire confidence. The commission should be reconstituted with 2 Judges from India and Chief Justice of J. and K. so that its impartiality and representative character may not be questioned.

10. Regarding finality of accession and other political matters, the conference will consider these points from every aspect and agreement sought to be reached which will be to the best interest of India including J. and K.

If there is some agreement as regards the general approach to the problem, contact will have to be made with Pt. Prem Nath Dogra. It will be for him to take the ultimate decision. Of course we will advise him what in our opinion should be done for a peaceful and speedy solution. I am sure he and others will not take up an obstructive attitude and will be ready to co-operate in every possible way.

I am receiving alarming reports about the nature of oppression that is now going on, including outrages on women. The National Militia has also been brought out for suppressing the movement. As you know very well the Militia mostly includes Sh. Abdullah's party men, the majority being Moslem. Already reports of

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their activities in the affected areas have reached us which are of a disturbing character. If now it is proposed to use them officially, it may take a very serious turn. Uptil now not one communal incident has happened and not one person has been killed on the official side. If today Govt. decides to rely only on force, police and semi-military, for suppressing the movement it may lead to disastrous consequences.

I have gone the utmost that I can for reaching a settlement. I cannot commit anybody on behalf of the Praja Parishad. Whatever I have said is on my own responsibility but I have indicated a general line of approach which, I feel, may bring this unfortunate chapter to a close.

If you feel that the above suggestions are worthy of your serious consideration and they should be discussed personally, I shall be glad to come to see you at any time convenient to you. If, however, you have finally decided that the movement is to be withdrawn unconditionally and there can be no understanding regarding any other point then I shall have to conclude with deep regret that I have failed in my efforts.

Your sincerely,
(Sd.) Syama Prasad Mookerjee

Pt. Jawaharlal Nehru,
Prime Minister.
New Delhi.

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XVI

Prime Minister
Jammu & Kasmir

Jammu Tawi,
February 18, 1953.

My dear Dr. Mookerjee,

I thank you for your letter of February 13 which reached me on Saturday last. I have gone through it carefully and I am to observe that you have not appreciated our position with necessary understanding and consequently there appear to be a fundamental difference in our respective approaches to the entire problem of Jammu & Kashmir State, I believe that this problem involves certain basic principles which need to be recognised and accepted for a dispassionate and fair appraisal of the position of the State. But, unfortunately a few isolated considerations seem to have led you to a judgment which is far from just or conductive to a constructive solution of our problems.

In my letter I had tried to explain to you our point of view which, we are convinced, is consistent with the basic principles underlying the relationship of the State with India.But it is unfortunate that you have not been fair in your appraisal of our point of view. While referring to the total application of the Indian Constitution you assume that we object to it on the ground that "Mulims of Kashmir may lean towards Pakistan". This is totally a false impression of the political maturity of the people of Kashmir. You admit the merits of our struggle against Muslim communalism and I am grateful to you for your complimentary

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remarks about me in this connection. While acknowledging the merits of that struggle you perhaps ignore the deep-rooted conviction of the Kashmiris against communalism as such. This was a fight for high principles and we did not bear any malice against the people of Pakistan as a whole but fought the communal and reactionary leadership in that country which wanted to impose its will upon our people by brute force.

Now that I have condemned communalism of a section of Hindus, I do not know why I should become as uspect and why my motives should be doubted. Communalism cannot be bad for one community and good for another. As you yourself admit it is a vicious circle and once it starts in one quarter it creates an equal and opposite reaction in others as well. Naturally, it cannot be condemned in one type and connived at in another.

This has been the conviction of the people of Kashmir for a long time. It was precisely the spirit of this belief that guided the people of Kashmir to make a decisive choise for India at a time when conditions seemed extremely unfavourale for such a choice. While fighting against Muslim communalism they were aware of a similar danger in India. But they were convinced that the vast majority of the people in India under the leadership of Gandhiji were themselves fighting this menace. It was this community of ideals that led us to link our fate with democratic and progressive India.

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Now that the bonds between us have been further strengthened, our conviction in these ideals and principles has deepened. It has become increasingly clear that the people of India, on the whole, have rejected the communal way. But if at any time India falters and forsakes these ideals, I have no doubt that even then the people of Kashmir will not lean towards communalism. This needs no proof as their conduct in 1947 stands as an ample testimony of their faith, determination and courage to uphold what is right and abhor what is wrong.

You have repeatedly referred to the unity and solidarity of India. Such sentiments are not less dear to us. But will the methods you suggest for forging this unity lead to this objective? The people of Kashmir voluntarily offered to associate themselves with the progressive people of India as they felt that their rights and liberties would be respected by the freedom-loving Indians with whom they had fought for liberation from imperialism and feudalism. The enlightened opinion in India recognised their vital human urges and the Constituent Assembly of India afforded them opportunities of achieving these political and social objectives. This mutual accommodation of each other's point of view, which has been accorded constitutional sanction should not be interpreted as a desire for separatism. After all, in a democratic country, the ultimate factor which decides the relationship between various units is the measure of willingness of each of these parts to come closer to each other for the common good of all. The unity between them comes from

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below and if it is sought to be imposed, it will injure the good-will and understanding which are necessary for a voluntary partnership and cooperation. This is the human approach to the problem and in our opinion the correct approach which can bring about a unity of purpose and work in our country. History has taught us that false notions of uniformity and conformity have often led to disastrous consequences in the lives of many nations.

I wish you would appreciate these basic principles of human relationship. After all, why did you reject the two-nation theory? It was precisely because we felt that this theory created an artificial division among the people and sought to impose a uniform pattern of thought on them. We were not inclined to joint Pakistan because we felt that there would be no scope for our people to grow up in the cramping frame work of a communal State. Our choice was justified, as in India we were afforded opportunities to pursue democratic and progressive objectives. Your suggestion in regard to abridging the scope of our internal freedom would lead to a denial of such opportunities to the State.

All those considerations were fully weighed when article 470 was devised. You have referred to late Sardar Patel's successful efforts at integration of Princely States. My I point out that the special position that our State enjoys at present has been the result of the farsightedness and statesmanship of the late Sardar. He was in fact instrumental in evolving the present basis of the State's relationship with the

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Union. Article 370 was incorporated into the Constitution under his guidance and at that time Shree Nehru was away from India. In this connection I might quote the very words of Sardar Patel which I used while explaining Kashmir's constitutional relationship with India.

"In view of the special problem with which the Jammu and Kashmir Government is faced, we have made special provision for the continuance of the relationship of the State with the Union on the existing basis".

Normally decisions between two Governments are arrived at through their representatives and in our case too all the decisions have been taken after mutual constitutional approval. This is the democratic way and in this respect our position is perfectly justifiable. But you seem to challenge the validity of all such decisions. You cannot expect us to revoke them. Such delicate issues cannot be settled by pressure or intimidation to which a group of persons with inspiration, support and guidance from outside have resorted in Jammu.

You fear that the present form of the State's relationship tends towards separatism and in this connection you have used the expression "three-nation theory". I have tried to explain in any last letter that our decisions were in no way detrimental to the unity of India as all our decisions flowed from the Indian Constitution. The variations in our policies in certain directions which you refer to again are not at all inconsistent with broad policies followed in other

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States and have been necessitated by the peculiar, special and political characteristic of our State. You will perhaps concede that our decisions in this respect have been democratic and progressive. For instance when you refer to the election of the Sadar-e-Riyasat, you perhaps forget that the Governors of other States are also appointed with the consultation of the State Governments. We have not limited the right to the Government but extended it to the legislature. This is a principle which all democrats should welcome. Then, again, you object to the name of the head of our State. You are not perhaps aware that Sadar-i-Riyasat is a name in a local language which is understood by the people in Northern India. While you prefer an English designation of "Governor", I fail to understand why the Hindustani nomenclature of Sadar-i-Riyasat should be objected to.

In this connection you have referred to the creation of a "republic within a republic". Perhaps you would accept "monarchy within a republic". But may I point out that our sovereign rights have been guaranteed and and preserved by the same Sovereign Parliament which is guiding the destiny of the country? I do not see how such guarantees can disruct the unity of India and create separate nationhoods. The formation of an Andhra State by an Act of Parliament would not result in the creation of another nation.

I would only request you to raise the issue above communal motives. There is no question of Hindus and Muslims here. On this level the controversy

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becomes involved in unrealistic and unnatural complications. You give an impression as if the Hindus and Muslims are going in contrary directions. But the problem is a simple one. The State of Jammu and Kashmir seeks to forge ahead towards progress and democracy and in this task, we consider that communalism of any type is a great danger. I regret that you have not understood these principles that are guiding us in our decisions. While referring to the Bhagwa flag, you suggest that there would be nothing wrong in its adoption if the country so chooses. I do not know whether you consider that this could happen only when militant Hindu communalism triumphs in India. In that unfortunate event where can Kashmir stand? Let me repeat that even then its people will continue their fight for Gandhiji's ideology to the bitter end. The father of the Nation did not give his life in vain. This noble sacrifice will always inspire and sustain us as it did in the critical days of 1947.

While referring to the Praja Parishad you do not mention its connection with R. S. S. Every one is familiar with the role played by the leaders of R. S. S. in Jammu in 1947, precisely at the same time when we were resisting Muslim communalism in Kashmir. I agree that that painful chapter has to be forgotten. But you have yourself said that "we may have to bear the lessons of that great tragedy in mind so as not to make mistakes in future". I earnestly wish you would address this advice to the leaders of the Praja Parishad who were intimately connected with the

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unfortunate happenings of 1947 in Jammu. On our part, we have no time been vindicative towards them. On the contrary, we wanted them to undo the wrong that they had committed. But the RSS leaders singularly failed to appreciate the spirit of this gesture. When following Gandhiji's assasination, the organisation was banned, it emerged under the garb of the Praja Parishad with the same programme and leadership. My impression of the Praja Parishad is not based upon any prejudice but upon its present activities. I have no doubt that its leadership is leading the State in disruptive directions, thereby threatening its foundations as well as those of India. The adoption of a few misleading slogans calculated to rouse the emotions of the common people cannot lend a democratic or secular character to this leadership.

You mention that the present agitation has been started by the Praja Parishad as its leaders did not find any remedy of their grievances through constitutional means. What were the means that these leaders adopted? Violence, intimidation, profuse abuse of civil liberties have usually been the weapons with which they have threatened the Government. Every year agitations were started under one pretext or another. Such methods are far from being constitutional.

In view of this conduct, past and present, how can there be any common ground between the Government and the Praja Parishad leadership. You do not expect us to compromise our basic principles, for which we have been fighting all these years, in order to accommodate

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the point of view of the Praja Parishad. So long as this organisation continues to be an instrument in the hands of the R.S.S. leaders, I regret it will not be possible for us to recognise this organisation. Of course, we are prepared to meet all those persons who may have honest differences of opinion with us but whose basic conception about the structure of the State is not at variance with ours. We shall be willing to explain to them our point of view. But this is not possible in an atmsphere surcharged with threats, coercion ahd violence. I will frankly state that the present leadership of the Praja Parishad is avowedly disruptive and communal in its aim and purpose. Consequently, it will not be possible for us to have any common meeting ground with them.

It is an extremely unjust accusation to charge us with attacking the Dogra. I might in all humility state that at no time have we been swayed by racial prejudices nor have we been motivated by a desire for dominating over any section of the people. I need not be told that rule by force of arms cannot be lasting. I have always stressed the unity of all sections of the people, whether they are in Ladakh, Jammu or Kashmir, on the basis of mutual respect and equal participation in the solution of the problems which are common to people everywhere. It is long since we have realised that the masses, irrespective of their religion or race, can redeem a place of honour for themselves only when they unite against injustice and social oppression. There is no doubt that while speaking to the exploited Dogra masses who, in spite of all the blessing of Dogra

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rule, are still living in drudgery and wretchedness, we may have referred to the inhuman conditions to which a small section of the landlords was subjecting them but in no case can you except us to condemn the entire Dogra people. We know them to be simple hearted, honest faithful and brave people. It is pity that some people should take advantage of their simplicity and attempt to mislead them in wrong directions.

You have referred to my opposition to the Maharaja. Much concern has been shown for him by some pepple in India on account of communal consideration. We have all along maintained some dignity in our struggle against autocracy as we were always concious that the fight was against the system and not against an individual. It is conveniently ignored that the responsibility of the complications in which India and the State are involved at present rests with the Maharaja. It was open to him to consult the people in time about the future of the State. But on account of his "chronic indecision" he failed to do so, thus leading to the present complications. In those fateful days when the future of the country as a whole was being given a final shape, the Maharaja clamped in jail all the patriotic and nationalist forces within the State who had forged a common link with the nationialist forces in India. The field was thus left free for all communal and disruptive elements within the State till the eve of invasion on Kashmir. All the efforts made by top leaders of India including Gandhiji, Sardar Patel, Shree Jawaharlal Nehru and Shree Kripalani, the

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then Congress President, to intervene in the unfortunate situation—unfortunate for the State as well as for India—were foiled by his consistent refusal to have any truck with patriotic and nationalist forces within the State. As you must be aware, the Maharaja had built many castles in the air of entrenched power and position and even at the risk of landing the State into grave peril he was not willing to accept the advice of the Indian leaders.

Throughout these fateful days he had allowed himself to be swayed and guided by coterie of foreigners who had their own plans about the State and who at that time occupied positions of power. This coterie even lent him courage to put under arrest Shree Nehru at Kohala when he was on his way to Kashmir to render assistance to the State at that critical juncture. The entire Indian people looked this discourtesy as an outrage against the Indian nation and this had repecussions even in the far south where demonstrations to protest against the Maharaja's action resulted in firing leading to loss of many human lives.

The Partition resulted in a conflagration on borders of the State, making the position of the State itself extremely difficult. But even at this crucial stage the Maharaja refused to a decision on the future affiliation of the State. Meanwhile, an invasion was launched on Kashmir from Pakistan. The Maharaja, instead of facing bravely the onslaught of the invaders along with the people, deserted them moved down to a safer place in Jammu. Where he aligned himself with militant Hindu communalism, further aggravating the already critical

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situation. This is the unpatriotic and anti-national record of the Maharaja for whom you show so much concern.

In my last letter I tried to explain our point of view with regard to the various issues that have been raised in respect of Jammu. The Government has given out full facts which show that no discremination has been meted out to the people of Jammu nor has it been motivated by any communal or provincial consideration in its administrative actions. Unfortunately, in spite of all this, you do not seem to be convinced by these explanations and have now repeated the charges in general terms. I do not know what to say to such an attitude where there does not seem to be any great desire to understand our point of view. In spite of our best efforts, our motives are still suspected. In such a situation, let us leave it to the people to judge us.

You have again referred to the delay in the implementation of the Indo-Kashmir Agreements. These agreements have been accepted by the Government of India and by Parliament as also by the Government of the State and its Constituent Assembly. Naturally there can be no question of going back on these Agreements. They will be implemented at the proper time. But, from the points you have raised in your letter dated 12th February 1953, to Shree Nehru you purpose to completely undo these agreements. I do not know what to make of these contradictions. The agreements are not acceptable to you and yet you would like them to be implemented speedily.

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As you have again referred to the "repressive" measures of this Government I would like to repeat that it is no pleasure to us to use force on any occasion. But you do not seem to realise the intensity of violence that has been let loose in Jammu. Naturally you would expect us to discharge the responsibilities of administration properly so that law and order are preserved and normal activity is not paralysed.

We have shown some forbearance. But it is painful to see that you do not appreciate our position. You even endorse the demand for an "Impartial enquiry". It is somewhat respecting to the self respect of any State to be told that even its Chief Justice cannot be impartial.

I am sincerely thankful to you for your offer of assistance. I feel that the best help that you can render to the State is to understand our point of view and appreciate our position dispassionately. In absence of this understanding, it is difficult to proceed towards a constructive and peaceful approach to the problem of the State.

Yours sincerely,
(Sd.) S. M. Abdullah

Dr. Syama Prasad Mookerjee, M.P.
30 Tughlak Crescent,
New Delhi.

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XVII

30, Tughlak Road,
New Delhi,
23rd Feb. '53.

My dear Sheikh Sahib,

I thank you for your letter of February 18, which I have read very carefully. Naturally I am not anxious to carry on a protracted correspondence with you merely for the sake of doing so. There are however, a number of important points in your letter which require a reply from me. My main object in approaching you had been to find out if we could at all bring the present impasse to an end in a peaceful manner, understand each other's view point and seek to create an atmosphere so that all of us, inspite of our other differences, may work together for the building up of the State of Jammu & Kashmir as an integral part of the Indian Union.

You have referred to the need for my correctly understanding the basic principles underlying the relationship of your State with India. Unfortunately your whole theory has been based on a rigid acceptance of a legal fiction created by the British Government in 1947 when they decided not only to divide India into two separate countries but also to bring into existence more than 500 large and small units as so-called sovereign zones. Normally speaking, when the British decided to withdraw from India in 1947, the entire authority of British Crown and Parliament should have passed on automatically to the successor

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Government. Undivided India having been separated into two, the obvious course would have been to regard the Government of divided India to be the successor Government in respect of the entire zone of Undivided India excluding the newly created State of Pakistan. The political unity of Undivided India was already an established fact and this was indeed the most vital contribution made during British rule. There was no question at all of any of the units within India claiming the right to secede under any circumstances; Such an attempt would have been regarded as a treason by the British. This united political structure was sought to be broken by the British into many fragments at the time they decided to transfer power. They did so not out of love or of consideration for the people of India or of the previously called Indian States. The main object was to make now India face a veritable crisis by not only creating the highly communal state of Pakistan but also a large number of so called independent zones which might not easily be prepared to integrate with India. The Congress at that time was forced to accept this position, for it was then anxious anyhow to see an end of British rule in India. The British scheme had the three following features; (1) Lapse of paramountcy and all that it meant; (2) States thus becoming independent had the full right to decide their own future regarding accession, (3) Accession was to be in relation to three subjects—foreign relations, communications and defence and with regard to the rest nothing would be done except with their concurrence.

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It is obvious that all these had one motive and one alone, and that was to create conditions which would make it difficult for the new Government to establish one strong and unified India.

You rightly refer to the days when you were fighting for democratic rights is your own state in close association with the leaders of the Indian National Congress, who were similarly engaged in what was then known as British India. Obviously at that time the joint intention of all was to create one India based on a truely democratic constitution. In those days no one dreamt of the remote possibility of India being divided on any considerations, communal or otherwise ; of any unit thereof demanding separate constitutional rights. Your whole thesis today is dependent on this sudden revival of sovereign powers at the end of British rule in 1947—powers which did not even pass into your hands but into the hands of the Maharaja. Circumstances, however, went against him. The very sovereign authority, that you are claiming today was derived by you from the Maharaja who either willingly or by force of events parted with all his legal and constitutional authority. None cared for his alleged constitutional rights.

Undoubtedly the Government of free India proceeded all along on the basis of this legal fiction, forced upon them by the British Government. But barring Hyderabad, Junagarh and Jammu & Kashmir, all the other states, their rulers and their people, realised that

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their fate was so closely linked up with India that for their safety and for the welfare of the country they should all merge with India and be governed by the new constitution. You know the history of Hyderabad and Junagarh and I need not repeat it here; they also today are irrevocable units of the Indian Union. In the case of Jammu and Kashmir, this could not have been done because war broke out with Pakistan. The constitution of India was being finalised. Thus a legal recognition of the common procedure followed for integration in all other cases had to find its place in our constitution in respect of the State of Jammu and Kashmir. And that was the genesis of Article 370. Sri Gopalaswami Ayyangar while moving the resolution in the Constituent Assembly made it abundantly clear that this was a transitory provision and ultimately the State of Jammu and Kashmir would come into the Indian Union just as all other states had done.

When, therefore, you think that a special provision was made for the accession of the State of Jammu and Kashmir or that you enjoy limited sovereignity, you do so in utter disregard of the historical circumstances under which the scheme of integration was forced on India by the British Govt. You may, of course, say that whatever might have been the origin of your so-called authority, that authority exists today and you are going to exercise it according to your will. Here I would beg of you not to take up an entirely legalistic stand. You are the Indian first and anything else next. Let us all examine the question in that

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spirit and by our common efforts undo completely the dis-unifying pattern that the British Government left as their last legacy to us. Between you and us there is another link which draws us closer to each-other. Our youths jointly shed their blood for saving this territory, which is part of India, from the cruel hands of the enemy.

Even assuming that your interpretation of Article 370 is constitutionally correct, my appeal to you has been that you should finalise the accession of the State with India as soon as possible and agree to be governed by the constitution of India with such modifications, if any, as may be specially required for the welfare of the State and which will not be harmful to the interests of India as a whole. Leaving aside constitutional niceties, I fail to understand how this approach to the problem can be deemed by you as wrong or unjust from any point of view. And this demand has been made by the people of Jammu and the movement has been sponcered by the Praja Parishad on this basis. Your effort should be to appreciate their fears and doubts and arrive at a settlement with them without raising all sorts of extraneous issue and gravely doubting their motives.

We must get the Kashmir issue out of the clutches of U. N. O. We went there on the issue of aggression and not on that of accession. We expect no help or sympathy from U. N. O. for reasons which are well-known. No doubt assurances of plebiscite have been given by the Govt. of India. Let us stick to the

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substance of this declaration that accession will be in accordance with the will of the people of the State. There is, however, no question of a general plebiscite, specially so long as one-third of the territory remains in the occupation of Pakistan. When I urged that the will of the people should be finally determined through a resolution to be passed by the Constituent Assembly of your State, I only indicated a procedure which could not be questioned by any impartial body. If this resolution is adopted and Pt. Nehru in his last latter to me says that he has no objection to this it should finally settle the question of accession between Kashmir and India. My own view is that the Govt. of India should accept it and close this matter.

Then remains the question of its possible effects on U. N. O. and Pakistan. The future of the lost territory may be settled when, if at all, we reoccupy it or Pakistan voluntarily withdraws from this area. Once the question of finality of accession is determined the people of Jammu will feel relieved and their main doubts and fears will be dispelled. It is wrong to suggest that I want or the Praja Parishad wants that Jammu must be separated from Kashmir Valley. The integrity of the State should of course be maintained What I however, said, was that in case the people of Jammu wanted full accession with India and the people of Kashmir Valley wanted a loose integration, clash and conflict were invitable. One possible solution might be to form Kashmir Valley into a separate State

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and give it whatever it wants for its development. It would even then continue as one of the units of the Indian Union but would function according to special provisions of the constitution. I had suggested this alternative with no pleasure. This I felt might become inevitable if no settlement could at all be reached. But let us drop this idea altogether and think in terms of united Jammu and Kashmir and find out how to consolidate it with the will in co-operation of the entire people.

Then remains the question of the subjects in respect of which accession should take place. The Praja Parishad has pleaded that your state should be governed according to the constitution of India just as any other part *B* State is. Here also I have stated that nothing is completely sadrosanct and if there are any articles in the constitution which you feel should be somewhat modified in respect of your State, it is for you to make proposals and undoubtedly they would be examined by parliament and every one else with sympathy and consideration. In respect of certain matters, however, the unity of India has to be maintained and the common rights of the citizens of India must be observed. They relate to such matters as fundamental rights, citizenship, supreme court, President's emergency powers, economic & financial integration and conduct of elections. Even with regard to some of these the State of Jammu & Kashmir may ask for some variation which can be considered on their merits. May I ask you, is there anything wrong or communal or reactionary in this approach?

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And are these matters really in capable of peaceful adjustment and understanding? You have said there is no Hindu and Moslem question in relation to accession or the acceptance of the provisions of the Indian Constitution. But may I ask, who are opposing this proposal? Not certainly the non-Muslims of your State. And what the fears of the Muslims are, so far as the present constitution goes, you have never cared to explain.

There then remains the questions of the head of the State and flag. Here we have seen no reason why seperate provisions should have been made for your State. You may refer to the proceedings of the Constituent Assembly and find our the arguments which were advanced by Pt. Nehru himself against an elected Head of the State. Obviously by this means the party in power will elect someone to fill this office. He is likely to be a party man and the head of the State should be an outstanding person and should not owe his appointment directly to the favour shown by the party in power in that state. Further the Head of the State might be called upon to act on behalf of the president in case of emergency. If he were a party man, both the president and he might find themselves in an embarassing position, in case such an emergency arose. The nomination of the Head of each State by the President was justified on the ground that by this means a common link would be established between each such head on the one hand and the President of the Union on the other. This variation had however to be made to meet your demand. I have

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nothing to say against Sadar-i-Riyasat as such. But here again why should not one common name, whatever it may be, accepted for all States? If every State has its own nomenclature, it will make confusion worse confounded.

As regards the flag, your acceptance of the same flag, as is applicable to the whole of India, would undoubtedly have removed any cause of misunderstanding. Even now you should agree to use the Indian flag from day to day as is done in other parts of India, your State flag being used on special occassions in addition to the India flag.

Incidently, I have been unable to understand your abhorrence of the Bhagwa flag. The Bhagwa colour has no communal meaning. It stands for purity, sacrifice & service. For so many thousands of years this was the colour of the flag in free India. There is no possibility of this colour being accepted in India immediately. But it is amazing that you should think that it represents aggressive Hinduism. Does secularism mean that India must cut herself off from her past history and traditions? The colour of your flag is wholly red, with a special design on it. If any of your uncharitable critics says that it is a camouflage for using the communist flag, surely it will be unfair and you will resent it. Let us not, pray, get colour-blinded.

You have misunderstood completely my reference to the Maharaja in my previous letter. In fact I hardly know the Maharaja and I believe I met him only once at some function. I hold no brief for him

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nor do I feel that in the modern set up there is any room for hereditary rulership in any part of India. Even when we condemn a man, we need not ignore his good points, if any. You seem to paint the Maharaja in a lurid manner. Yet it was this Maharaja who alone from his class had the courage 20 years ago to stand up at the Round Table Conference in London and plead for a progressive approach by the British towards India's claim for political independence. It is a matter of history that for this act of his he became the eye-sore of British administrators in India. He might have made grevious mistakes and perhaps did things which at some periods went against his State's welfare and India's national interest. But surely his last performance helped the Government of India and you in achieving your main purpose. You have referred to his act of desertion from Srinagar when the raid on the city was iminent. This is not a fair and an accurate charge. I have seen certain documents and have heard from unimpeachable source that this is untrue and the Maharaja was asked to leave Srinagar at the express wish of Lord Mountbatten and other leaders. One obvious reasons was that his signature was essential for finalising certain formalities and it could not have been done if by any chance Srinagar fell and he was captured. It is hardly possible that you are unaware of this fact. For some special reasons you with your family were also away from Kashmir at that time. Need the reason for all this be also gone into now ?

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Again, did you not yourself write a letter to the Maharaja sometime in September 1947 where you assured him that you and your party never entertained any feeling of disloyalty towards him, his throne or his dynasty ? Did you not again write to him in March 1948 when you were asked to take charge of the affairs of Government, valuing the full help and co-operation of the Maharaja and appreciating the spirit in which he had made the offer to you ? Surely you cannot charge the Maharaja for having done anything ungracious or atrocitous after March 1948. The entire power was then transferred to your hands by the Maharaja's own decision. He was then virtually a rubber-stamp and had to do what the Govt. of India or you wanted him to do. Inspite of all the assurances of loyalty that you gave to him personally, you took the earliest opportunity to eliminate him completely from his throne and his dynasty with the full support of the Govt. of India. I shall not say anything about the manner in which this was done after all your expression of gratitude and loyalty. Perhaps you strongly felt that the interest of the people demanded this sacrifice on the part of the Maharaja. In any case having utilised him to the full extent to your political advantage and also to what you considered to be the interest of Jammu & Kashmir, it is hardly gracious on your part now to take up past history and attempt to throw the entire blame on him. Great leaders like you can afford to be magnanimous and not unnecessarily express strong sentiments against your past opponents. I hope you will forgive me for saying all this

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but your failure to observe this necessary precaution has often given rise to unnecessary doubts and controversies. The Maharaja is gone and the present movement is not at his revival. It is aimed for ensuring that full democratic rights may be enjoyed by all sections of people and the minorities may live without fear and with equal rights. In no part of India does the autocratic rule of Maharaja exist now. Wherever they function, they do so as constitutional heads, with no power barring what they derive from the advices tendered to them by their council of Ministers.

You have misunderstood me completely as regards my comments on the composition of the commission of enquiry. I have cast no reflection whatsoever on the honesty and the integrity of your Chief Justice. I do not know him personally but I believe he must be a man, who is above all influences in the discharge of his duties. As I wrote to Mr. Nehru, the other members of the Commission are all administrative officers serving under you. One is Accountant General, the second is Chief Conservator of Forests and the third is Revenue Commissioner. I do not know them. I presume they also are competent and honest in the discharge of their duties. But in the present context of things, they are hardly the persons who can sit in judgement over Government's policy and administration. In other parts of India, whenever similar serious controversies arise, Commissions of Enquiry include Judges exclusively or the majority of their members is taken from the Judiciary. Sometimes

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matters relating to a particular State are enquired into by a Commission to which Judges from other States are invited to join. This is no reflection on them. I had therefore, suggested to Mr. Nehru that you should be requested to reconstitute the Commission which may include, apart from your Chief Justice, two judges from other parts of India. Does it indicate any inducement on your Chief Justice or a challenge of your authority ? Your autonomy is not apparently disturbed by your using Indian Police to strike at your own citizens. Then why should you consider it as a challenge if you yourself ask some Indian Judges to help you in your administration ?

May I remind you of what you yourself did about 20 years ago when a Commission of Enquiry was appointed by the Maharaja to enquire into serious riotings and disturbances in the State of Jammu and Kashmir with which your party and even your name were associated. You and your friends then refused to co-operate with the Commission even though its President was Chief Justice Dalal. You felt, and perhaps rightly so, that a Commission composed of persons who were in State service would hardly be able to do full justice to the grievances of the people. Now that the table has been turned and you are all in all authority today, why should you not appreciate the fears and doubts of those who disagree with some of your official policies and acts and who may be anxious for a really impartial and independent investigation?

I have been unable to understand your refusal even to talk to the representatives of the Praja Parishad.

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What I have suggested is that the movement should be called off, followed by a Conference where Mr. Nehru, yourself and some representative of the Praja Prishad may be present. All matters, political and constitutional, should be thrashed out there and every attempt is to be made to clear up doubts and fears and create an atmosphere of peace and good-will. Further the prisoners should be released and all confiscatory or other orders should be withdrawn. The Commission should be reconstituted and all grievances regarding economic or administrative matters should be examined by it. Every effort should be made by all sides concerned to create a united front so that the State can be built up with the co-operation of all. The implementation of the July agreement after the issues have been clarified should be expedited, the rest of the constitution should be completed soon, followed by general elections.

May I ask again, is this an anproach which must be dubbed as reactionary, communal and treacherous? Why not take the Praja Parishad at their words and deal with the issues they have themselves raised? The movement is not confined to their members and suporters. It has caught the imagination of the masses and you cannot crush this by force. You all talk so much of Gandhism and Gandhian technique. When, however, the crisis comes, these high sentiments are kept in the background and threats and abuses. jails and confiscation, bayonets and bullets constitute your weapons of *ahimsa*. Unfortunately you seem to be adamant that

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under no circumstances will you talk to the Praja Parishad leaders or have anything to do with them. This is a strange attitude on the part of a democratic leader. Whether the Praja Parishad will continue as a political party or not will depend on your desire but on the response it may receive from the people at large. If you, who represent the dominant political party in the State and in whose hands the powers of Govt. rest today feel determined to crush a particular political party that may be opposing you, and to adopt force and other methods for the purpose, then you cease to be a democratic leader. You then become a fascist, but even then your success is doubtful, for in all such cases history has proved that the movement goes underground and ultimately the mighty dictator loses the battle of true freedom. I dare say a man like you who has risen to his present eminence through great sacrifice and sufferings can never dream of adopting such dangerous and self-destructive methods.

Your reason for not negotiating with them is, I believe, based on your estimate of the past association and activities of the Praja Parisad. You have specifically referred to R. S. S. I do not belong to this organisation but I know many people associated with it and I have deep regard and affection for their idealism, patriotism and spirit of sacrifice and service. They might have made some mistakes in the past, as you and I also might have done on many occasions. But we need not necessarily look upon this organisation as an enemy of the nation. The whole of India barring Jammu and Kashmir has withdrawn the

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ban on R. S. S. Undoubtedly there were all sorts of allegations against R. S. S. made some years ago. None of them has been proved in a court of law or elsewhere. None of its workers has been, accused and convicted of violent or subversive activities. No impartial tribunal has ever given its verdict against its aims, objects and work. Its association with Gandhiji's tragic murder has not been proved even to the slightest extent. If it is preaching some ideologies which you and others do not like, naturally you are entitled to make counter-propaganda. If people are thus convinced that R. S. S. is bad, they will themselves disown their support of this organisation.

The one specific charge you have brought against R. S. S. and Praja Parisad is that in the fateful days of October 1947 they played on ignoble part in forcing out Muslims from some areas of Jammu and even in depriving some of their lives and honour. It is not possible for me to obtain evidence in support of the validity of this charge. If specific individuals who carried on such acts could be found out, one does not know why they were not put up for trial after you came into power. Why was no Commission of Enquiry set up immediately afterwards? Let me however, accept your contention as true. May I ask you in all earnestness why you should ignore the circumstances under which such tragic events took place in your State? You have made no reference whatsoever to the tragedy that fell on Hindus and Sikhs in Jammu province before the attack on Muslims took place. 15 to 20 thousand Hindus were butchered by the joint

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acts of Pakistani invaders aud Muslims of Jammu State living in those areas. Even today five thousand Hindu women remain untraced and unrecovered. Many were tortured and raped and all sorts of atrocities took place on innocent Hindus and Sikhs. Obviously Hindus and Sikhs did not commit these murders. They were committed by Muslims. You were the accepted leader of the National Conference in those days. Can you solemnly pledge that among the assailants, all of whom were Muslims, none belonged to your National Conference which was the dominant party in the State? Why were you staying in Delhi or some-where else at that time and not present at the affected areas to save Hindus and Sikhs from these terrible atrocities? True to the Gandhian spirit, why did you not face the people bravely then? The attacks on Muslims in Jammu started after these atrocities had been committed and thousands of refugees became scattered in different places, carrying with them tales of their sufferings and shame.

Pray do not misunderstand me for a moment. I do not justify either of these sets of occurrences. Evil does not justify evil. You and we have got to see that India does not pass through similar blood-bath in future. My main object is that if we wish well of India we have got to forget the memories of that tragic period. Your repeated reference to only one part of these incidents fills me with wonder when, if at all, you will be able to forget the past and carry with you all sections of the

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people for the good of your State, and of the country? What about the rest of India? What about my own province, Bengal? In August 1946 were not thousands of Hindus brutally massacared in the great city of Calcutta itself and under the very nose of the Muslim League Ministry and the British Government? Hindus later retaliated. Two months later were not 30 thousands Hindus forcibly converted, hundreds of women raped and many men killed in the district of Noakhali? Are you suggesting that I shall for ever carry in my mind sentiments of hatred and retaliation against the Muslims of West Bengal for what they did in 1946 or 1947? Similar remarks may be made with regard to many other parts of India. Today many of them have been accepted as whitecapped Congressmen and some of their leaders against whom there were grave charges of organising rioting and manslaughter are even occupying important positions. Similarly Muslims in some parts of India may also harbour feelings of hatred against Hindus for the atrocities that were committed on them by Hindus during the same period. India was then moving in a vicious circle. Action produced reaction and we were on the brink of a precipice. Of course many of the areas where Hindus were the greatest sufferers are now in Pakistan and even today the minorities, wherever they may be in Pakistan, are suffering heavily at the hands of the Muslim League Govt. and are enjoying the peace of the grave. How many Muslim leaders in India have even expressed their lip sympathy at their tragic fate?

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So far as we in India including Jammu and Kashmir are concerned, we have got to treat this chapter as closed and offer to each other the hands of comradeship so that we can mutually build up a country, where religion will function not for dividing people into warring camps but for generating mutual respect and understanding, all working as common citizens of a common motherland with equal rights and opportunities for self development. If we go on thinking of the past and refuse to create an atmosphere of trust and co-operation we will be committing national suicide. If, however, any section or individuals betray this trust, they will be dealt with under the law for actual offences and not on past prejudices or even past offences.

I am enclosing a statement showing the nature of excesses and atrocities committed by the authorities. I have no means of checking them nor will mere denial on your part or a departmental report of any of your officers will be an answer to these charges. If half of them is true, they indicate a grave state of affairs. Only an independent enquiry may bring out the truth.

I would earnestly request you to cry halt even at this stage. Repression will not solve the problem. It will create hatred and bitternees which will not be easy to remove. Refusal to talk to your political opponents who are in jail today will not give us a solution. The movement has to be brought to an end and we must make a fresh beginning. Knowing as I do the fears and doubts of many of the people associated with the

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Praja Parishad and also the depth of the feelings that sway the minds of the people of Jammu, I feel confident that if you rise equal to the occasion and offer to sit at a Conference with them, keeping an open mind, mutual understanding and peace will ensue and all will be able to begin a new chapter of progress and prosperity- If you do this, you will not lose your prestige but your statesmanship and sense of realism will win for you the esteem and admiration of one and all.

I felt it my duty to open this correspondence with you as I thought that being a fighter yourself all along your life, you would not hesitate to play the game even with those with whom you may violently differ. Upto now I have failed to make you change your attitude. You are in power today and much depends on your right initiative. I shall close this correspondence with deep regret that we could not come to an agreement inspite of the grave danger that lies ahead of us.

Yours sincerely,
(Sd.) Syama Prasad Mookerji

Sh. M. Ahdullah,
Chief Minister,
Jammu and Kashmir.

(A copy of the report of repression in Jammu given in Appendix was attached with this letter.)

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APPENDIX

REPORT OF REPRESSIONS IN JAMMU UPTO 20th FEBRUARY, 1953.

Praja Parishad Satyagraha has now been going on in Jammu for the last three months. It has spread to the fartherest villages and has assumed the form of a mass-movement. It is being carried on peacefully and non-violently inspite of the gravest provocations from the side of the Government. Not a single incident of putting any Government servant to death or setting fire to any Government building has taken place so far, inspite of the fact that most of the leaders of the movement have been arrested and put in Jail. But the repression on the side of the Government to suppress this legitimate and peaceful movement has crossed all limits. It has let loose brute force of Police and Militia on the people of Jammu who are being subjected to most inhuman treatment inside and outside the Jails.

The following report gives more idea of the repression now going on in Jammu:

About two thousand persons have offered Satyagraha so far but only about 12 hundred of them have been sent behind the bars. The treatment meted out to the rest of the Satyagrahis was that they were kept in the Police lock-up for the whole day and then loaded

on trucks and lorries during the night to be let off at distant in desolate places after giving them a thorough beating. Some of them were thrown in Ranbir Canal as a result of which 4 persons caught Pneumonia one of whom, belonging to Jammu Tahsil, has since died.

In the severest cold of December, when the temperature in Kashmir falls below the freezing point a batch of about 100 prominent persons amongst those arrested was transferred to Srinagar Jail from Jammu Central Jail. They could not bear the severe cold of Kashmir to which they were not accustomed, and so have been undergoing terrible suffering since then.

A few days later, another batch of prisoners was loaded for Srinagar via Banihal Cart Road. On refusal of permission to cross the Pass by the Military authorities as it had become snow bound the prisoners were kept at Banihal on the foot of Pir Panchal although no Sub-Jail exists there. In the benumbing cold and heavy rains the Satyagrahis were not allowed for 48 hours to ease themselves or move out to attend the calls of nature. During the first 10 days they were given very meagre food for 8 times only, instead of 20. To protest against this inhuman treatment the prisoners had to go on hunger strike. Seventy four of them were kept in Sericulture Insect Breeding House. As a result a number of them fell ill out of whom the condition of Shri Masat Ram and Shri Charan Dass became critical.

Some of the Satyagrahis were subjected to barbarous torture in the Police Lines of Jammu after their arrest. The examples of this sort of torture can be

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cited in the case of Shri Bhagwat Swaroop, B. A., Thakur Nanak Singh, Secretary of the Rajput Sabha, Shri Shiv Ram—a prominent worker of the Harijan Mandal and Shri Vishwapal. They were not only given shoe-beating but also the hair of the private parts of the body were pulled out. Shri Rishendass from Rishnal (R. S. Pura Tehsil) was so mercilessly beaten in the local Thana that he fell unconcious several times. In a number of cases the Satyagrahis were forcibly pulled out from the procession, caned in open and dragged by legs to the Police Station.

Fire has been opened on peaceful processions eleven times and Lathi-charge has been made at 31 places. These have resulted in the death of a number of persons of whom the remains of 19 persons have been traced so far. The chronological report of these lathi-charges and killings is given below:—

On the 26th of November, immediately after the arrest of Pt. Premnath Dogra, Police Lathi-charged the people, who had assembled to listen Pt. Dogra, so severely and indiscriminately that an Inspector of Indian Intelligence was also severely injured. The lathi charge at Udhampur on the 29th of November resulted in severe injury to a number of women. The most severe lathi-charge was made at Badhrawah on the 17th of January on a peaceful procession led by Ch. Kushi Mohd., the Tehsil President. He and scores of other were severely injured. The Satyagrahis were stripped naked and humiliated in many ways. At Jaurian a severe lathi-charge was made on a peaceful

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procession on the 28th of January as a result of which one woman died.

Firings.—The first shot was fired by the Police on a Parishad Procession at Sambha on 27th of November. But it did not result in any fatal casualty.

The first to die of police bullets was Shri Mela Ram at Chhamb on the 15th December. The Government at first denied any casualty but when his body was brought to Jammu the Government had to admit the fact.

On the 29th of December, 3 persons were shot dead when police opened fire on a peaceful procession at Sunderband, a village about 25 miles from Jammu. Their dead bodies were burnt at dead of night and even their remains were not given to their next of kin. Here too the Government first denied any casualty but had to admit the fact after three days when the names and the addresses of the dead became known to the people.

On the 11th of January worst firing took place at Hira Nagar, a Tehsil place about forty miles from Jammu on the Pathankot Jammu Road in the presence of two Ministers of the State. The number of the dead as a result of this firing has not yet been ascertained. The dead bodies of two of them—M/s Bihari Lal and Bhikam Singh—were found half burnt in a Nallah near the Indian border the next morning. But according to the report of the Fact Finding Mission sent by the People's Party, 13 are missing and twenty were injured as a result of this firing, which appeared to be more in nature of display of might, rather than to deal

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with any particular situation real or imagined according to that report.

The last firing took place at Jaurian village about 30 miles to the West of Jammu on the 30th of January. A procession of three thousand villagers from the surrounding villages was first tear gassed and then fired upon while it was carrying the dead body of the woman who had sucumbed to the injuries received as a result of police lathi-charge on the previous day, to the cremation ground. According to the authorities 5 were killed and one was injured. But according to the report of Sardar Bachan Singh Panchi, who was deputed by the State Akali Dal to visit the place to ascertain the true facts, a much larger number of persons was missing. The names and addresses of nine of them have so far been traced. The number of the injured according to his report runs to over 2 hundred, twenty of whom were seen by him in one village alone. Not a single dead body was restored to the guardians of the deceased.

Crimes perpetrated on women.

The worst part of this campaign of repression is the cruelties and crimes being perpetrated against women who have sympathy for the movement.

A women's procession in Jammu on the 11th of December, was repeatedly tear-gassed and lathi-charged as a result of which many ladies including small girls, received severe injuries. One girl remained unconcious for full 12 hours. Another was refused admittance in the Hospital because of her precarious condition. Two lady Satyagrahis, who were leading the procession, also

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became unconcious and were taken to Jail in that very condition.

On the 6th of January police arrested four satyagrahi ladies who were leading a procession in Jammu city. They were kept in the policy lock-up the whole day long. At 11-0 in the night they were taken out of the lock-up and thrown on the roads.

On the 26th of January, 10 Satyagarhi ladies who were picketing at the bus stand were man-handled by the police. A police officer abused them in the most filthy language. Their leader Kumari Sharda was arrested. As a result of the ill-treatment in the jail, she fell ill. After seven days when it was found that her condition had become precarious, she was thrown out of the jail in unconcious condition.

On 17th January, 3 girl students of Mahila College were abused, man-handled and assaulted by an Inspector of Police while they were dragged by their hair.

On the 27th of January, the police raided the house of a Numberdar in the village Rothusa at 2-00 a. m. in the night. He was not at home. They asked about him from the two young ladies who were there at the time. On their inability to tell the whereabouts of the Numberdar they were stripped of their clothes, criminally assaulted and then carried to jail. They were maltreated in the jail as well.

On the 3rd of February, police raided the village Gho Manhasn in Jammu tehsil. It forcibly entered the house of Thakur Rachapal Singh who is in jail and looted 12 tolas of gold and 500 rupees from his safe.

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His wife was mal-treated and the maid-servant in the house was stripped naked and criminally assaulted by the Police.

Ten ladies at Udhampur had to go on Hunger Strike as a protest against this ill-treatment to the Satyagrahis, particularly women, inside and outside the jails.

The worst feature of these crimes against women is that the Police is being sent after giving spirituous drinks to them, so that they might handle the Satyagrahis particularly in a cruel and senseless manner to strike terror in the people.

Since the beginning of Non-co-operation and Civil disobedience, the second phase of the Satyagraha, Kashmir Militia and Police have let loose a reign of terror in the countryside.

Jammu, Akhnoor and Riasi Tehsils have been first chosen for this campaign of terror. They have been completely thrown on the mercy of Police and Militia who have been raiding villages in batches to terrorise the people. A few glaring cases are given below:

In the village Gho Manhasen Santoo Mahajan was threatened in his own house and pair of 3 earings along with rupees 200 were looted.

In Kulkarian thorough search of many houses was carried out and the houshold belongings of Shri Mewa Singh who was later arrested, thrown out.

Severe beating to Kartar Singh of Gho-Manahsa resulted in the fructure of his knees and heavy wound in the interior of his mouth. Sansar Singh Chibb and Santoo were severely injured.

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On 18th Magh, the house of Pt. Abhey Ram in the village Ganjoo was searched and his whole female household terrorised.

On this very, day, at 4-0 p. m. in village Sahaan, house of Messrs Baldev Singh and Fakir Chand Mahajan were raided. After search six Harijans were beaten. The same day at 5 p.m. in village Karlop houses of Messrs Shri Ram and Nand Lal, were raided and keys were forcibly obtained from the womenfolk by threatening them with beatings. At 7-0 p. m. in village Plora Harmukandpura house of Mr. Ram Chand was searched and about 2 tolas gold along with rupees 13/- in cash was taken away. Here two persons were injured by the police beatings. On the 17th Magh, house of Shri Chhaju Ram in Garota was searched and the inmates immorally harrased. Getting dis-appointed in not having found anything in the house of Pt. Sita Ram of village Shri Pondtan the whole household was abused and terrorised. A neighbour was arrested and then let off.

In this immoral hunt for workers and terrorising people, police party reached Palwal and searched Shri Ram Chand's house. Having found nothing there, made its way to Koat. Here the houses of Messers Munshi Lanchmandas and Pt. Dehroo Ram were searched. But nothing was found. This irritated the unscruplous police officers, who lost all balance and arrested a minor aged ten along with the post master. Both of them were released in Domana the following day after severe beating.

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On 19th Magh, in village Paryal House of Mr. Budhi Singh was raided. His son Keor Singh and sister were beaten in his presence. When he raised hue and cry, he too was beaten. Since then he is lying in bed. The house was thoroughly searched and Rs. 800/- in cash were taken away. Shri Keor Singh was also arrested. Shri Vakil Singh's house was raided and all the sweets and other things which he had collected for the marriage of his daughter were confiscated. Rs. 300 in cash also were taken away. After raiding the house of Indir Singh and confiscating some of his belonging, the "Victorious Party" returned.

In village Laddoar house of Shri Dewan Chand was raided and his brother was beaten. A local Harijan, who stood near by, was ordered to give him a further shoe-beating. On his hesitation to comply with such a strange order, he too was beaten. On their return journey, the Police Party brought one tin of Kerosene Oil and one full truck of fuel.

On 23rd Magh, at ten in the morning house of Shri Shatrugun of village Marh was raided. A Chair and ornaments of the women were confiscated. Moustaches of Mr. Ghaju Ram Harijan were cut off along with a part of his head hair. Durga Das Harijan was beaten and arrested but on a bribe of Rs. 40/- was released. During the day while perpetrating these criminal atrocities houses of all of the four villagers were raided. At nightfall when the police began to return, the villagers heaved a sigh of relief.

On 24th, Police marched towards Garohta through Agaur. Reaching there the attack was made at the

NATIONAL ARCHIVES OF INDIA

house of Kaviraj Chhaju Ram which proved fruitless and the police had to return empty handed.

Being irritated by the applications made in the Court by the inhabitant of Sangrampur against the inhuman treatment meted out to them on Magh 22, the police again sieged the whole village on Magh 24. The helpless and innocent people, both young and aged, men and women, fled out of the village terror stricken. But many of them including Dhani, a Mahajan, realised the scene of the Pakistani invasion. Dhani, a harijan, was beaten while running. Shib Ram Longu, Chatro Das and Ram Dass were severely manhandled. The blood rushed out from the head of Chhatro Dass. At Domana, a village about eight miles from Jammu on the bank of canal, a sweat-meat-seller was plundered of all the sweatmeats, the only source of family.

On Magh 21, the police again raided the villages of Gho-Manahs and Rathoa. The son of Kaka Ram was severely beaten and they searched his house but could not recover Ram Piari. At Rathua, the keys were recovered from a ten year old daughter of Ch. Ram Lal Tempo and again searched his house. Bajura Yogi of Rathoa was serverely beaten. The Police announced there that anybody found giving water to his bullocks will be severely punished. The Police ordered for kerosene oil so that his house may be set on fire.

On Phagan 28, 2009, 28 persons arrested in a procession at Bilwar, were cruelly beaten at mid-night. In this extremely cold part of Jammu, they were not provided with beddings and were forced to pass full

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three days without water and food. Some of the Satyagrahis having been beaten at the icy hands of the police & militia, have resulted in swelling.

In village Bilwar of Basoli Tehsil, a Militaryman, who was heavily beaten succumbed to death on Phagan 27, 2009.

Some villagers on their way to a shop in the nearby village and another group of the villagers going for worship in a temple in the adjoining village were cruelly beaten.

In the Ramkot area, the same tehsil, Kashmir Militia and Police in hundreds entered the villages, beat the menfolk and terrorised and manhandled the ladies and looted their property. The people of the illaqa consequently, have left their homes and have taken recourse to living in jungles to avoid police atrocities.

A maid cook of Richpall Singh of Jammu Tehsil was totally made naked by the police in course of search of his house.

How brutally the Police lathi-charged the people can well be imagined from the fact that the skulls of two villagers, Bhagat Singh and Teja Singh, were broken out.

Two Military Soldiers Baikunth Singh and Pritam Singh in Akhnoor who were on leave, were arrested by the Police, while on their way to Canteen and kept under in their custody for full 15 days.

Hundreds of Militia soldiers and Policemen with the help of the Muslims of the Illaqa raided and looted the village Kawana of tehsil Nowshera.

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About 100 Kashmiri Militia soldiers raided the village Kot Mehra near Pakistan border in Tehsil Akhnoor and looted property worth Rs. 4,000/- after having severely beaten the residence of the village.

The Govt. has taken away the arms distributed in the villages like Bokar, Dadora, Bhagwan Chak, Sajana and Sanial on the Pakistan Border. This had resulted in an increase of Pakistani raids into these areas.

P inted By—
Radheshyam Kapoor at Bharat Press,
Sadar Bazar, Lucknow.

NATIONAL ARCHIVES OF INDIA

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Published by:
Publicity Department
Bhartiya Jana Sangha
Ajmere Gate
Delhi.

Price As. 8

Printed By
Radheshyam Kapoor
at Bharat Press
Sadar Bazar, Lucknow.

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Balwant Singh

NATIONAL ARCHIVES OF INDIA

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TOP SECRET

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20th June 1952

22-9 and

My dear Maulana Sahib,

I enclose herewith copy of a note on Kashmir which I have sent to the Prime Minister.

Yours sincerely,

Maulana Abul Kalam Azad,
New Delhi.

Signed
20/6

NATIONAL ARCHIVES OF INDIA

(15'9)

TOP SECRET

9C 14

139/52

20th June 1952

My dear Shri Gopalaswami Aiyangar,

I enclose herewith copy of a note on Kashmir which I have sent to the Prime Minister.

Yours sincerely,

Sd/- R.P.

Shri N. Gopalaswami Aiyangar,
Minister for Defence,
New Delhi.

Also to:
Maulana Abul Kalam Azad

Dr. K.N.Katju.

Issued 20/6

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R. No. 506.

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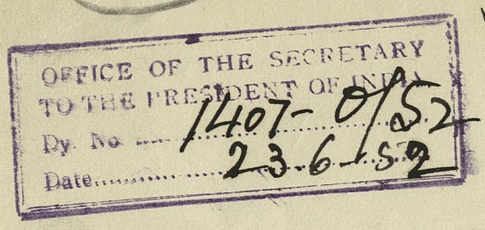
To



1. Shree Dr., Rajendra Prasad Ji,
   Rashtrapati, Indian Union,

2. Shree Jawaharlal Ji Nehru,
   The Hon'ble Prime Minister,
   Indian Union,

3. Dr. Kailash Nath Katju,
   The Hon'ble States Minister,
   Indian Union.

NEW DELHI.

MAY IT PLEASE YOUR EXCELLENCY,

THE future of the Jammu and Kashmir State, particularly its relationship with India is a matter of vital and paramount importance to the people of the State. The people of Jammu are particularly anxious to ensure that their State becomes firmly and finally a permanent Unit of the Indian Union and are prepared to pay any price for it.

It was this anxiety to be one with the rest of India that induced the people of Jammu to offer their fullest cooperation to the Kashmir National Conference when powers of day to day administration were transferred to it by the Maharaja at the behest of the Government of India. This was done in the hope, that the leaders of the National Conference would overcome their past prejudices against the Dogras of Jammu and carry the whole people of the State with them to achieve the common goal of full accession to India.

But unfortunately Sheikh Abdullah's Government not only failed to appreciate this cooperative spirit but even mistook it for a sign of weakness and adopted a policy of systematic deliberate discrimination and repression against the people of Jammu Province generally and their representative body the Praja Parishad particularly. This representative and discrimi-natory policy extends to all spheres of political, economic and cultural life of the people and even amounts

It is addressed to those most concerned.
23/6/52

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(Amounts) to interference in their religious life.

4. In the first place the civil liberties of the people of Jammu, their freedom of speech and their right to participate in formulating and if necessary of criticising Government policies particularly those relating to the relationship of the State with India in a constitutional manner, have been completely denied and effectively curbed by frequent arbitrary use of Section 50 of the Defence of Kashmir Rules, and the Public Security Act. Not content with this wholesale suppression, Abdullah's Government has started a regular campaign of harrassment of the people by initiating general censorship of press post and telegram and introducing measures whereby the relatives of the Praja Parishad people are made liable to lose their appointments and pensions. There are cases where such steps have already been taken. As a result, the voice of the people, who are dissatisfied with the present policy of limited accession and want closer and complete union with India, has been completely gagged. Newspapers that dare criticise the Govt. have been suppressed and silenced. The Indian Newspapers that happened to be sympathetically critical of the policies pursued by the Kashmir Govt. have been banned in the State. The President of the Praja Parishad and his co-workers have been repeatedly arrested and detained without trial for long periods. Recently, in February, this year, the Students' Agitation against the use of the Party Flag at a public function in place of the State Flag was made an excuse to adopt repressive measures against the Praja Parishad and a veritable reign of terror was let loose on the people of Jammu. A number of its prominent workers were externed from the State. This has made the condition of the people much worse than it was even under the old autocratic regime. The people of Jammu and Kashmir have no fundamental rights and cannot approach even the Supreme Court of India for protection.

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5. In the educational sphere systematic effort has been made during all these years to break the linguistic and cultural ties that bind the State with the rest of India. Hindi occupied an equal place with Urdu in the educational life of the State before accession. Now it has been completely relegated to the background. Urdu has been made the official language of the State and the medium of instruction in the Schools. Even the Text Books meant for girls are full of difficult Persian and Arabic words which even the Teachers do not understand. Urdu has been made a compulsory subject for the Matriculation Examination. A sense of Kashmiri Nationalism, as distinct from Indian Nationalism, is sought to be created through the books prescribed for the school going children.

6. Among the seven men who constitute Text Book Committee of the State, there is not a single person belonging to Jammu or to the minority community.

7. A separate University for the few Colleges of the State has been established entailing heavy burden on the State Exchequer only to cut off the educational and cultural ties which a common University created between the students of the State and of India. Even the Examination papers are set with the object of creating anti-Dogra feeling in the examinees as will be clear from a perusal of English Paper B, for the Intermediate Examination 1952 of the J&K University.

8. In the administrative sphere, the Party interests have been carefully nursed at the expense of merit, fair-play and the wider interests of the State. Recruitment to the services used to be made through open competition or on merit and seniority during the Maharaja's Regime. Now, the only qualification for winning or retaining a public office is party affiliation. Almost all the key-posts are held by men from the Kashmir Province. Sheikh Abdullah has publicly declared that he wants the party and the

NATIONAL ARCHIVES OF INDIA

(the) Government to be managed entirely by the same personnel, ignoring that this practice is followed in totalitarian States. Communalism, against which Sheikh Abdullah is fond of talking so loudly, is being practised so extensively in the State Administration that notices advertising vacancies of Govt. posts sometimes clearly say that " only Mohammadans need apply".

9. The men in power in the State, judged from the policies they have been pursuing, seem to be determined to make the people of the State feel that they are being ruled from Srinagar. The Training College, which was started by the Maharaja's Govt. in Jammu, has been shifted to Srinagar, the Tosha-Khana, which contained all the valuables and curios of the State along with manuscripts lying in the Jammu Library, have also been carried to Srinagar. It was planned to shift the State Press also from Jammu to Srinagar, but this has been postponed for the time being as the result of Public protest. Jammu enjoyed the status of a separate Province with a separate Governor during the old regime. Now the separate entity of Jammu Province has been destroyed by abolishing the Governorship and lumping together the Districts of Jammu and Kashmir under one Commissioner.

10. The territorial limits of the various administrative units of the Jammu Province have been altered with a view to the eventual partition of the Province into Hindu and Muslim Zones so that the Muslims may be in a position to act at the critical time to the deteriment of India. The Udhampur District which had a clear Hindu majority and acted as direct link between Jammu and Ladakh, has been split up into two Units. Its Northren areas like Bhaderwah, Kishtwar and Ramban, which contain most of the mineral and forest wealth of the State have been constituted into a separate Muslim majority district of Doda, which is intended eventually to be amalgamated with Kashmir. The minorities in the zone are being harassed and threatened

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(and threatened) to leave, the illegal provocative speeches are being delivered by the National Conference leaders in the very presence of the police without any action being taken. Arms and ammunition is being manufactured and supplied to the members of the majority community. This district besides destroying the natural cohesion of the Jammu Province has become a wedge separating Jammu from Ladakh. Similarly, Reasi district was split up and a new District of Rajouri-Poonch created. The Tehsil of Reasi with a preponderant population of Hindus was joined with Udhampur and the remaining portion of Reasi District i.e. the Tehsil of Rajouri was joined with Muslim majority areas of Poonch. Further, with a view to extend this newly created District of Rajouri Poonch a portion of Reasi Tehsil in the West of River Chenab and certain Northern Patwars of Akhnoor Tehsil, which are predominantly Hindu areas are being separated to form a new Niabat of Sunderbani.

11. The motive underlying these measures becomes clear when we keep in view the treatment meted out to the thousands of Hindu and Sikh refugees, who emigrated from the Pakistan held territories of the State. They want to settle in the State. There is enough room to settle them all. In Jammu District alone 7,04,914 kanals of evacuee land is available for settlement. But instead of allotting that land to the refugees it has been given to favourites on payment of five times the annual land revenue which amount is being credited to Muslim evacuees fund. The Govt. of India all this time has been spending crores of rupees on feeding these refugees, who are now being sent out to distant places like Bikaner and Bhopal against their wishes.

12. The law defining the term " State subject" is being so interpreted as to prevent people of Indian domicile from settling in the State. But when it comes to Kazaks from Turkistan, all these Laws are put aside and they have been given full naturalisation rights to settle in Kashmir Valley. Similarly, lacs of Pakistanis have been allowed

NATIONAL ARCHIVES OF INDIA

(allowed) to infiltrate into the State during the last four years. They have been helped to settle down in the State.

13. The economic condition of the people of the State, particularly in Jammu and Ladakh, has greatly deteriorated during the last four and a half years. New taxes have been imposed and the existing ones enhanced from two to five times with the result, that their burden has become almost unbearable considering that the average income is about one half of that in the rest of India and the burden of taxation considerbly much more. The Govt. control over the Transport and distribution of all articles of necessity is telling heavily on the people. The burden of exhorbitant Customs duties continues to shatter our economy. A thing worth rupee one at Pathankot costs us between 37% to 50 % above that price in the State. Within the State, Govt. monopolies have replaced private enterprise to the detriment of the consumer. The charges for transport of commodities to different parts of the State fixed by the Govt. are much higher than the rates charged by the Private transporters. The scope for Private Transport has been practically eliminated by the establishment of the Government Transport Deptt. There is no free competition. Petrol which is derationed throughout India is controlled in the State. This has not benefitted the people at all except perhaps a few families of the ruling party.

14. The people of Jammu foresaw the dangerous results of the Government policies quite early. The President of the Praja Parishad, brought these apprehensions and grievances also to the notice of the Government of India. We have undergone all this suffering in the hope that it will end with the complete accession of the State to India, when we will have all the benefits of Indian citizenship including the protection of fundamental rights which is guaranteed by the Indian Constitution. But that hope has now begun to change into despair. When the elections to the Constituent

NATIONAL ARCHIVES OF INDIA

(Constituent) Assembly for the State were ordered last year, we were given to understand that the Constituent Assembly would ratify the accession of the State to India. We, therefore, prepared ourselves to take part in the elections. But to our great disappointment, 41 out of 59 nomination papers of the Praja Parishad nominees were rejected on flimsy grounds and conditions were created through official pressure which made fair elections impossible. I appealed to Sheikh Abdullah as also to the Government of India to hold an independent judicial inquiry into the wholesale rejection of nomination papers of the Praja Parishad candidates and prevent Government servants from abusing their authority by helping actively the National Conference candidates, so that the fears of the people regarding partiality of the elections may be allayed. But no heed was paid to our requests with the result that the Praja Parishad was forced to boycott the elections under protest. The Constituent Assembly is clearly a packed body and consists of the nominees of single party. It is not a sovereign body. It does not represent the people of the State at all. The people of Jammu have no voice in it. Moreover, the representatives of the State in Indian Parliament are all nominees of this Constituent Assembly. Thus we have no representation in the Indian Parliament either.

15. The announcement made by Mirza Afzal Beg, a member of the Basic Principles Committee of the Kashmir Constituent Assembly, that Kashmir would be an autonomous Republic within the Indian Republic with a separate National Assembly President and judiciary and the subsequent speeches of Sheikh Abdullah have made it clear that National Conference wants a very loose relationship with India and not full accession like other Part B States. So our hope that redress will come to us through the application of the Indian Constitution in its entirety to the State has been

NATIONAL ARCHIVES OF INDIA

(State has been) dashed to the ground. Our very existence as a self-respecting section of the Indian people is now in danger.

16. Further more the recent vital decisions made by the Constituent Assembly, regarding State Flag and termination of the Ruling Dynasty, have caused deep resentment throughout the State and particularly in the Province of Jammu. From this, it is evident that the things in the State are drifting towards the creation of an Independent Republic.

17. The whole sale condemnation of the heroes and founders of the State have greatly wounded the feelings of the people of the Jammu Province which indicates that the people of the Jammu Province in general are looked upon by the party in power with contempt.

18. These circumstances have forced us to approach your honour with the request which may look drastic but which is the only alternative now left to us. Leaving out of consideration for the moment those parts of the State which are now under the illegal occupation of Pakistan, the India held territory of the State is made up of three distinct regions namely, Jammu, Ladakh and Kashmir Valley.

19. The people of each of these regions, are a distinct people with a distinct language, culture and history and a definite territory. The Jammu region lies south of the Pir-panchal Range as far as the Cease Fire Line at Suchet-garh, and between Ravi and Jhelum Rivers in the East and West, and includes Doda and Padar areas. This Unit forms the core round which Maharaja Gulab singh wove the present fabric of Jammu and Kashmir State.

20. We of Jammu claim the right to determine our future ourselves. Had Kashmir Valley, the most populous region, held with us the view that the State should accede to India as one of its integral part like other part B States, we need not have made this demand. But now that we find that the State Constituent Assembly is taking decisions

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(decisions) for the entire State in matters of fundamental importance to our future existence which run counter to our declared wishes and are detrimental to our interests and those of INDIA AS A WHOLE, we are constrained to approach you for the protection of our legitimate rights and interests. And whatever may be the views of the other regions of the State about their accession to India being limited only to a certain number of subjects, we of Jammu Province desire that we shall be united and integrated with India in the same manner as other Part B States have been. We claim that the people of Jammu Province hold this view and that if necessary this can be ascertained and verified by any recognised democratic method through an agency independent of the present Kashmir Government. We are glad to note from the speeches of Shre Kaushak Bakola that Ladakh holds similar views and demands similar rights for that region. Sheikh Abdullah is also reported to have said in one of his speeches " If Jammu and Ladakh so desire, they can decide to integrate with India and leave Kashmir Valley free to have limited accession".

21. Being the descendants of those, who sacrificed their blood and resources to build up this great and integrated State, it was our desire, that the entire State including those parts which are still held by Pakistan should form like other Part B States an integral part of the Republic of India. To bring about that consolidation we are prepared, like our ancestors willingly and cheerfully to make the greatest sacrifices including that of life to reconquer for India what <u>rightfully belongs</u> to her and us. But till that happens, we cannot agree with Sheikh Abdullah that like Kashmir Valley, we also should accede to our own MOTHERLAND with reservations.

22. Permit us in the end to request you to judge us and this our demand as coming from a people, who have always been and shall always remain Indian. That is our greatest

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(greatest) pride. Imagine for a moment any other part of India whether in the East, West or South placed in that awkward predicament in which we are and then you will probably agree that the same demand would have been made by the people of that region. As children of India, it is but natural that we should resist any move to keep us away from our Motherland in howsoever a small degree. As it is attempted to keep us substantially out of India, we, there-fore, want to make it clear that we shall not accept any such position. We want the entire Constitution of India to apply to Jammu. We want to have the protection of the Supreme Court, we want to enjoy the fundamental rights as all Indians do, we want the same Flag as is allowed to Part B States and not the Red Flag now selected by Sheikh Abdullah and we want to be governed by the laws of the Indian Legislature. That way lies the future of Jammu and we feel it our patriotic duty to resist with all the strength at our command attempts from whatever quarter made to thwart the full accession of Jammu with India.

Yours faithfully,

Premnath Dogra

(PREM NATH DOGRA)

President,

All J & K Praja Parishad HQs. Jammu.

Dated Jammu,
the 19th June '52.

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Pages 15-24 ante

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President may see the representation below. It is addressed to him, the Prime Minister and the States Minister.

President may recollect that he sent a copy of his note re Kashmir to two other Ministers as well, Maulana Azad and Shri N. Gopalaswami Ayyangar. If he so desires, copies of the representation may also be sent to the two last named.

The usual acknowledgment will go to Mr. Prem Nath Dogra.

D. N. Mitra.

24.6.1952

President.

Yes. As I have said in my note will this consent to Maulana Azad & Shri Gopalaswamy. Copies of this may also be sent to them.

Rajendra Prasad
25/6

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(171)

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25th June 1952.

Dear Sir,

I am directed to acknowledge the receipt of your petition dated the 19th June 1952 addressed to the President. P.15

Yours faithfully,

Sd/- D.N. Mitra

Secretary to the President of India.

Shri Prem Nath Dogra,
President, All Jammu and Kashmir
Praja Parishad HQs. Jammu,
JAMMU (Kashmir).

Issued
26/6

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TOP SECRET.

25th June 1952.

Dear Sir,

In continuation of the President's letter to you of the 20th June 1952, P. 12-14
The President has desired me to send you a copy of a representation received by him from the President of the Pages 15-24 ante
Jammu and Kashmir Praja Parishad.

Yours faithfully,

Sd/- D. N. Mitra

Secretary to the President of India.

Shri N. Gopalaswami Ayyangar,
Minister for Defence.

Issued with enclosure JNM 25/6

Maulana Abul Kalam Azad,
Minister for Education & NRSR

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(173)

1, Queen Victoria Road.
New Delhi,
June 20, 1952.

My dear Rajen Babu,

Thank you very much for a copy of your note on Kashmir. I have found it very informative and instructive. I am going to-night to Mandsaur in Madhya Bharat and shall be back on Monday morning when I shall wait upon you.

Yours sincerely,

Dr. Rajendra Prasad,
President,
Rashtrapati Bhavan,
NEW DELHI.

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सत्यमेव जयते

MINISTER
FOR
DEFENCE

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TOP SECRET

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Copy sent to PRP
RVS 16/8/52

New Delhi,
29th June 1952.

My dear Dr. Rajendra Prasad,

I am sorry I omitted to acknowledge at once the receipt of your letter No.132/52 dated the 20th June, together with its enclosure. Subsequently I received from the Prime Minister a copy of your letter to him of the same date.

P.14

I wish to offer no comments on these. The Kashmir Delegation of Ministers had a number of talks with me between the 15th and 18th June, and I recorded a note of the results of these talks on the 19th. I enclose a copy of this note which you may be interested to read in this connection.

pages 30-37 infra

Yours sincerely,

Gopalaswami

Dr. Rajendra Prasad,
President,
Rashtrapati Bhavan,
New Delhi.

Enc: 1

No (175)

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TOP SECRET

TALKS WITH KASHMIR DELEGATION.

The Kashmir Delegation (Afzal Beg, D.P. Dhar, Shamiri and Maulana Mohd. Saeed Masudi) has had three long talks with me. There is no need to mention the details of the discussions, but the following are the main points which emerged from those discussions :-

I. The abolition of hereditary monarchical rule -- The Government of India were prepared to accept this, but the time and manner of its implementation have to be settled by agreement between them and the Kashmir Government.

II. As regards the headship of the State, the main point was that the person chosen he head must be recognised by the President of India. The delegation said that they did not want the doing away with this recognition, but suggested that provision might be made in the Indian Constitution by a suitable order under Article 370 (3), which would indicate that the person elected by the Kashmir Assembly (or whatever electorate they may devise for this purpose) should be formally recognised by the President of India. I told them it would be unthinkable to use the word "formally" in this connection in a document like the Indian Constitution. No doubt, ordinarily the President might recognise whomsoever the Kashmir Assembly or other electorate recommended in this behalf. It might grow into a convention but such recognition would, except in very extra-ordinary circumstances, be automatically given, but the Constitution itself should

.. leave

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leave the President's power in this respect unfettered. The delegation, after some discussion, agreed to drop the suggestion to provide in the Constitution for formal recognition.

III. The method of choice of the new head of the State was then discussed. I pointed out to them that, in all my speeches and correspondence with them, I had deliberately avoided the word "elected" in this connection. I did not use that word even in my very last letter to Sheikh Sahib. When Sheikh Sahib brought his draft of the inaugural address to the Constituent Assembly, he was advised to drop any reference to election; instead the word "choice" was to be used. He accepted this advice in the text of his address. The Government of India were by no means satisfied that, when Kashmir ceases to be a Part B state with hereditary monarchy abolished and becomes in effect a Part A state, it should have an elected head; the alternative of adopting the present provision in the Indian Constitution for the choice of Governors of States — namely appointment by the President — was well worth consideration. The convention in regard to Part A States is that, before a Governor is appointed, the Prime Minister always sought the consent of the Chief Minister of the State and the Chief Minister, being the head of the State and being the leader of the majority party in the State Legislature, was a sufficient expression of the wishes of the ruling party in the State. That was by no means an inadequate expression of democracy. .. But

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But, if the Jammu and Kashmir Government were unwilling to adopt this course, any election either by the Legislative Assembly of the State or by a special electorate devised for the purpose could be only a recommendation to the President of India for recognition.

The Delegation agreed that any election they ~~may~~ might hold for the purpose could only be a recommendation to the President for recognition.

IV. It was agreed that Yuvaraja Karan Singh was to be recommended for recognition by the President as the first head of the new State. The question of his term of office was then discussed. I pointed out to them that the question of the term was deliberately omitted from Sheikh Sahib's inaugural address and that it would be a graceful act on the part of the Government and Constituent Assembly of the State to fix no time so far as Karan Singh was concerned and to fix a term of five years only for those who might succeed him in the headship of the State. The Delegation was unwilling to accept that position. They wanted the term of five years. They were prepared to exempt Karan Singh from the age or other disqualification for the headship of the State not merely for the first term of five years but for subsequent terms. The whole object of this step of abolishing hereditary monarchy would, according to

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them, be defeated if Karan Singh was to be the head of the State for life. Incidentally, they mentioned that Maulana Azad had suggested that they might fix Karan Singh's first term at 15 years. I told them it was a wise suggestion in the nature of a compromise between the term for life and a term for five years only at a time and that they would be well advised to accept Maula Sahib's advice. I asked them to think it over further ~~mk~~, but it is unlikely that by themselves they would agree to it.

V. As regards the name of the new head of the State, that was a matter which had to be discussed and agreed on between the Government of India and the Government of Kashmir. As the head of the Union of India is the President, it was obviously desirable that the name of the head of a Unit State should be different. This, I take it, can be adjusted in the course of further discussion.

VI. I pointed out to them that, before the Constituent Assembly of the State passes any resolution for implementing the decision as to the abolition of hereditary monarchy and the recommendation of the Yuvaraj for recognition as the new head of the State, it was important that certain preliminaries should be completed, for example,

(a) the abdication of Hari Singh;

(b) recognition of Karan Singh as Maharaja in place of Hari Singh; and

(a)

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(c) fixing of Karan Singh's privy purse etc. All these were primarily matters between the Government of India on the one side and Hari Singh and Karan Singh on the other. But these should be completed before a change in the character of the headship of the State takes place. That change should be effected in circumstances in which Karan Singh as the recognised Maharaja of Kashmir could participate in it.

It follows that the time-table which the Government and Constituent Assembly of Kashmir have decided on for passing separately this resolution about the dynasty and the new head of the State could probably not be conformed to. It might take longer than the one month period which they ~~have~~ had already indicated. The Delegation agreed that it did not matter if the target date was postponed a little.

VII. The question of how decisions on the matters already referred to should be given effect to under the provisions of the Constitution of India was then discussed. The Delegation said that all these could be done by a notification by the President under Article 370 (3). I said that I was not prepared to say that this was impossible, but the matter should be examined by legal and constitutional experts and a method should be evolved which would not be open to the charge of impropriety either from a legal or constitutional point of view.

But, apart from legal or constitutional propriety, certain political-cum-constitutional hurdles had to be crossed before either an

.. amendment

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amendment of the Indian Constitution is undertaken or the President is advised to act under Article 370 (3). Amongst such matters are

(a) the determination of the range of Union jurisdiction including financial integration should be definitely settled. This settlement might entail amendments to other provisions of the Constitution as applicable to the Jammu and Kashmir State.

(b) The question of whether it is necessary to ask Karan Singh (who will be after his recognition as Maharaja be the legal repository of all sovereign powers not already transferred to the Union) formally to transfer the sovereign powers vested in him either to the Centre or to the State or to both in accordance with decisions which may be taken by the Constituent Assembly in previous agreement with the Centre, will have to be remitted to constitutional and legal experts and a decision taken.

VIII. Karan Singh will, before the new order of things is brought into being, have formally to relinquish his position as ruler by hereditary right and to accept the position of head of the State recognised by the President on the recommendation of the Assembly or other electorate in the State. In other words, he will not be Rajpramukh by virtue of his recognition as Maharaja, but will, if he is so recommended, become head of the State by mere recognition

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by the President of India. The necessary consequences that will follow are :-

(1) that, so far as his Maharajaship is concerned, he will have nothing to do with the headship of the State;

(2) that he will sink to the position of the numerous Rulers in India who are not Rajpramukhs;

(3) that, like them, he will, as Maharaja, be entitled to such Privy Purse as may be sanctioned to him and to all his private property and other private sources of income. In this capacity, the Privy Purse and the private assets will be inherited by his successors in the family,

(4) that, as regards the headship of the State, he will derive his title only from the recognition by the President after obtaining the recommendation of the Assembly or other electorate in the State.

I advised the Delegation to start immediately ~~serioo of~~ serious talks on the question of financial integration and of accession on other subjects. They agreed, and I informed both Dr. Katju and his Secretary about this and the latter has been instructed to contact the Delegation and fix the time and place for these discussions. I expect they will be starting these talks to-day if they have not already done so.

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It was understood that no decisions on any of the matters discussed could be treated as final until Sheikh Sahib had come over/after here 'Id' and discussions had been held with him also.

Sd. N. Gopalaswami
19-6-1952.

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TOP SECRET

30th June 1952

My dear Shri Gopalaswami Ayyangar, 29

I have received your letter of the 29th June, about Kashmir. We shall be meeting tomorrow morning, and if there is anything further to talk about it, we shall do so.

Yours sincerely,

R.P.

Sri N.Gopalaswami Ayyangar,
Minister for Defence,
New Delhi.

Issued
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30/6/52.

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(Copy)

TOP SECRET

Rashtrapati Bhavan,
New Delhi.
22nd July 1952

My dear Jawaharlalji,

In the course of conversation yesterday, when you read out to me the summary of the provisional decisions taken regarding Jammu & Kashmir, I mentioned to you the desirability of securing the concurrence of the Maharaja of Kashmir or the Yuvaraja to any decision that could be made regarding the abolition of the Maharaja's dynasty. Since then I have been considering the matter over again and I feel that without such concurrence, our position will be morally weak if not indefensible. The Instrument of Accession provided for three things, namely (1) Accession of Jammu & Kashmir, by which the territory of Jammu & Kashmir became a part of the territory of India: (2) Limitation of the power of India to three subjects in relation to the governance of that State: and (3) Continuance of the sovereignty and dynasty of the Ruler who entered into the agreement with the Government of India. Being party to that agreement, it does not seem to me right for the Government of India to insist upon the first two conditions and to abrogate the third. It is not so much a legal or constitutional question as a moral question. An agreement is an agreement and it is not right unilaterally for the Government of India to go back upon any conditions which it has accepted. Subsequent agreements by the Government of India with other parties would not in any way diminish the force of the first agreement. That agreement was not made by us under any duress or coercion, as if there was any party which was in a difficult situation, it was not the Government of India but the Maharaja. The fact that he had left Srinagar and shifted to Jammu, another place within the territory of the State, under the pressure of raiders, does not in any way reduce the value of that agreement so far as we are concerned. Sovereigns and even Governments have been known to run away from their seat under the pressure of an aggressor,

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but they have not for that reason been considered to have lost any of their rights. As it is a question on which the moral status and prestige of our country depends, I feel it would be worth while securing the Maharaja's or the Yuvaraja's concurrence to any arrangement that is made, as was done in the case of all other States with their Rulers when they were integrated or merged. I gathered that the Maharaja was interested only in getting some money. If that is so, it is worth while negotiating on that basis and settling it with him. Mahatmaji insisted on our fulfilling the terms of an agreement with Pakistan and parting with Rs50 or Rs55 crores at a most critical time, and we cannot do less especially when the other party is weak and not in a position to enforce the only term of the agreement which is in his favour. As I have said, I look upon it as a moral question more than a legal or constitutional one.

Yours sincerely,

Sd/- Rajendra Prasad

Shri Jawaharlal Nehru,
Prime Minister.

22.7.52

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TOP SECRET

22nd July 1952

My dear Shri Gopalaswami Aiyangar, — pages 39 to 40 ante

I enclose herewith copy of a letter on Jammu & Kashmir, which I have sent to the Prime Minister.

Yours sincerely,

JN

Shri A. Gopalaswami Aiyangar,
Minister for Defence.

Dr. K.N.Katju, Minister for Home Affairs & States

Maulana Abul Kalam Azad, Minister for Education & N.R.& S.R.

Issued
on 7.52.

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TOP SECRET

22nd July 1952

My dear Dr. Katju,

Pages 39-40 ante

I enclose herewith copy of a letter on Jammu & Kashmir, which I have sent to the Prime Minister.

Yours sincerely,

JN

Dr. K.N.Katju,
Minister for States & Home Affairs.

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TOP SECRET

22nd July 1952

My dear Maulana Sahib,

I enclose herewith copy of a letter on Jammu & Kashmir, which I have sent to the Prime Minister.

Yours sincerely,

Maulana Abul Kalam Azad,
Minister for Education & Natural Resources
& Scientific Research,
New Delhi.

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PRIME MINISTER,
INDIA.

Copy made for R.P. 16/8/16

TOP SECRET.

No. 4163-P.M.

New Delhi,
July 22, 1952.

P.39

My dear Rajendra Babu,

Thank you for your letter of 22nd July about Jammu & Kashmir.

The point you have mentioned has been before us. But the reality of the situation is that we cannot order Jammu & Kashmir Government to do something which they finally object to. Right from the beginning our attitude has been that the people of Jammu & Kashmir can decide for themselves any question relating to them. They have now an elected Constituent Assembly and thus the Government there can more definitely speak on behalf of the people of the State. At the most we can say that we do not agree with their decision. That means a break with rather far-reaching consequences. It is with a desire to avoid this break that we have spent long hours every day in discussions with them and among ourselves. This has been a most exhaustive business.

Even before this question arose, we had asked Maharaja Hari Singh to abdicate. He had partly agreed to do this, but wanted a large sum of money, both as arrears and in the future. The matter got stuck up there. So far as the Yuvaraj is concerned, he understands the position well and has been in frequent consultation with us. I have no doubt that he will accept our advice or any decision that we may arrive at.

During the last four years, the Government of India has been trying to help and protect Maharaja Hari Singh in every way. But for our protection he would have been given short shrift. When he left Kashmir for Bombay, we agreed to pay him nine lakhs a year from the Government of India apart from rupees six lakhs which the Kashmir Government paid. Even that six lakhs was agreed to by the Kashmir Government after the greatest difficulty and pressure from us.

I entirely agree with you that we should keep the moral aspect in view. This moral aspect also requires that we should agree, according to our repeated undertakings, to comply with the wishes of the people of Kashmir. In any event, we cannot compel them to act otherwise. We can only try to convince them.

We may, of course, out of our own funds, give a large sum of money to induce the Maharaja to agree. That does not appear to me a moral course to adopt, apart from the fact that we owe a certain duty to the people whose money it is. With starvation and famine in India, no Parliament can ever agree to this large grant. It is not as if the Maharaja was short of money. He has plenty and indulges in expensive pa-stimes like horse racing. He has been a head ache to us throughout these five or six years and I have no doubt that most of the troubles of Kashmir are due to his follies and wrong actions. Nevertheless, we gave him every consideration and tried to protect his interests.

contd.....

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PRIME MINISTER,
INDIA.

As I have said above, so far as the Yuvaraj is concerned, we certainly hope to have his consent. Indeed, if he is chosen as the Head of the State, as is proposed, this fact alone indicates his acceptance of the new scheme of things.

This Kashmir question is full of difficulties and we are very far from being out of the wood. I indicated to you yesterday some provisional conclusions or agreements that we had arrived at. Much remains and we have to proceed carefully. The effect of a wrong step might well be far-reaching.

Yours sincerely,

Jawaharlal Nehru

Dr Rajendra Prasad,
President,
Rashtrapati Bhavan,
New Delhi.

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STATEMENT IN REGARD TO KASHMIR MADE BY THE PRIME MINISTER IN THE HOUSE OF THE PEOPLE ON THE 24TH JULY, 1952.

The Prime Minister and Minister of External Affairs (Shri Jawaharlal Nehru): Sir, I am grateful to you for this opportunity to make a statement in regard to affairs relating to the Jammu and Kashmir State. The House has been interested and the wider public is also interested in these developments and, therefore, with your permission, Sir, I shall take a little time of the House to state not only the present position, but go somewhat into the background, because we are apt to forget what has happened in the recent past. Public memory is short and unless we remember that past it is sometimes a little difficult to understand the present.

The State of Jammu and Kashmir for long years was a delectable playground for those who could afford it, one of the famous playgrounds of the world, and though the people living there were for the great part poverty-stricken, it drew many people from the rest of the world. This Kashmir, which was politically-speaking a backwater for these long years, was suddenly thrust into the current of history and since then events have happened there, many developments have taken place—good and bad—and naturally public attention has been drawn to them and it has become an international affair. For us in India it is, of course, something much more than that, not only because of our long contacts ranging over a thousand years, but also because of these recent developments which have brought us nearer to one another. So, therefore, I would ask the indulgence of the House, if I may put it so, for some background information.

First of all, I would like the House just to form a mental picture of the geography—the geographical situation. From the southern tip of India, Kanaya Kumari, Kashmir is just about or a little over two thousand miles. It is a far cry. Roughly speaking, Kashmir is about a thousand miles from the sea. While a part of India it is, in fact, the heart of Asia, geographically speaking, and for countless ages great caravans have passed from India right up to Central Asia through this State. It is essentially, and it has been for two thousand years or more, very closely connected with India culturally and politically often enough. It is also connected in various ways with Central Asia. Even now I wonder how many people realise that Kashmir is further north than Tibet. So one has to think of Kashmir

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in that peculiar geographical position apart from the other factors in the case.

Now Kashmir, as I said, was suddenly thrust into this current of history. This current is moving very rapidly in many parts of the world and sometimes it becomes a rushing and raging torrent in some parts. We seem, all of us or most of us all over the world, to live on a thin crust of peace and the crust threatens to crack up often enough and does crack up sometimes. Even this morning's news will bring this picture to the minds of hon. Members,—the happenings in some States in Western Asia, the *coup d'etat* and the rest taking place and the lack of stability. We in India are perhaps a little fortunate in this respect, because in spite of many things that some hon. Members may complain of, or protest against, there is, it is widely recognised, a large measure of stability in our machinery of Government and affairs in the country and a continuous, progressive development, without those cracks appearing. This is a matter of good fortune for us. But at the same time nobody in this wide world can afford to forget this cracking and sometimes, as it appears, disintegrating world of ours. That is the major background to be remembered.

Now in the State of Jammu and Kashmir, as in other Indian States of old, there were strivings for freedom against the feudal rule that existed there. As in other States again, they took their inspiration from the great nationalist movement of India. In essence, they were the outcome of that very movement and the off-shoots of that movement and their ideals and objectives also very largely came from that big movement and that great leader, Mahatma Gandhi. I think I would be right in saying that of all the various State movements in India during the last twenty or thirty years probably the State movement that developed in the Jammu and Kashmir State, the popular movement I mean that developed there, was the most powerful and grew up to be the best organised. It came in conflict, inevitably, with the State Government there, as all such movements did elsewhere. This movement was intimately conected with what was known as the All-India States Peoples' Conference. Thereby it became a part of that allied movement in India which affected all the States in the country. It was closely connected with it. This is the background.

There were during these years, as in the rest of India, conflicts with the State machinery and the people there and the popular organisation there went through a great deal of torment and suffering. There is much to be said about that period, but I shall now come to more recent times.

When, or a little before, Independence and Partition came, the House will remember that we were faced by this big problem of

the six hundred and odd Indian States in India. It was a terrific problem and we had to solve it with great rapidity. The announcement that the British Government had made—I think it was round about early in June 1947—had left the position of these States vague. We did not like that part of the British Government's announcement, because, in a sense it almost encouraged fissiparous tendencies in these States. It almost led some people to think or imagine in these States all over India—I am talking about the Rulers there—to think that they could function more or less independently.

So, in those months of July and August 1947 we had to face this major problem. Fortunately, we had a man big enough to face it—Sardar Patel. And then during those two or three weeks preceding Independence we saw nearly all these States in India acceding to the Union of India, or to the Dominion of India as it then was—nearly all, barring two or three, barring Hyderabad, barring Kashmir and one or two small ones. Hyderabad's case, as the House well knows, was a very special one. Kashmir, I am dealing with. The other small ones did not count much. So practically all these States acceded to India with great rapidity. And I should like to say that we were helped greatly in that process by the then Governor-General of India, Lord Mountbatten. That help had great effect because it proved to all these Rulers in these States that they could not rely upon the British Government, as against India. And so they were faced by this coming Independence of India, of which they were afraid. They were faced by their own people who were dissatisfied with them and wanted a change. And when the last support which they perhaps looked up to, that is the British Government, also failed them they had no prop left, and hence the rapidity of their accession to India. They acceded on three basic subjects, Defence, Foreign Affairs and Communications. All the States did that. And so the Dominion of India started on the 15th August 1947 with all these States having acceded to it, excepting Hyderabad on the one side, Kashmir on the other, and one or two small ones.

In regard to Kashmir, even before the 15th August, I should imagine in July, the question came up before us informally. And the advice we gave was that the State of Jammu and Kashmir, for a variety of reasons, occupied a very special place. May I add here that even in regard to the other States in India the Government of India had declared its policy—the Minister of States, Sardar Patel, had declared our policy clearly—that where in regard to any State there was any doubt as to the wishes of the people, those people should be consulted. That is to say, normally speaking there was no doubt that these States wanted to become parts of the Union of India—there was no question of consultation, no doubt—but where

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there was any doubt we declared that we will consult the people and abide by their wishes. That general policy and principle applied to every State in India. But there were hardly any cases where this question arose and that is a different matter. So that, when the question of Kashmir at first informally came up before us—it was always before us in a sense, but it came up before us informally round about July or the middle of July—the advice we gave to Kashmir State was—and, if I may say so, we had contacts with the popular organisation there, the National Conference, and its leaders, and we had contacts with the Maharaja's Government also, rather vague contacts, but they dealt with us—the advice we gave to both was that Kashmir is a special case and it would not be right or proper to try to rush things there, and the general principle we had laid down that the people of the State should be consulted specially applied to Kashmir. This was before Partition, before the actual coming of Independence. We made it clear that even if the Maharaja and his Government then wanted to accede to India, we would like something much more, that is, popular approval of it before we took that step. We did not wish by some clever tactics to gain something on paper. We were after something much bigger, that is to gain the hearts of the people there to have a real union. Indeed, the basis and the foundation for that real union had been laid in the past—a much more enduring basis than even any legal or constitutional document. That basis had been these national movements there and here, our working together in co-operation for common ideals, and our having to endure common suffering. That was the real basis. So we made it clear in the month of July 1947 that the State of Jammu and Kashmir should not be hustled into taking any action, though many of their leaders were personally inclined, but they knew their people too and they said that the initiative should come from the people and not merely from the Maharaja's Government, only then it will endure. We accepted that entirely. And so we informed the Maharaja's Government as well as the leaders of the popular movement there that this matter of accession should not be hurried, that it should wait over till some method was found of consulting the people. And at that time what we envisaged was some kind of Constituent Assembly being elected there. In fact we envisaged that for other places too, wherever such a question arose. And we advised that meanwhile there should be Standstill Agreements with India and Pakistan that was going to come soon, so that no change need be made, except minor changes, and a little later, at leisure, this question could be considered further.

Well, of course there was little of leisure that we had after the 15th August 1947. Upheavals took place in Pakistan, in the States of India bordering on Pakistan, and we had to pass through much

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pain and torment during that period. We could not think of Kashmir or any other place. We had to deal with the immediate issues that faced us from morning to evening.

Suddenly, the House will remember, in the last week of October 1947 an invasion took place of Kashmir through Pakistan. Now, it has been said in Pakistan often enough that there was some deep conspiracy on the part of India, allied with the leaders of Kashmir, to create trouble in various parts of the State, in the Poonch area and the rest. It has also been said, some people have said, that we knew all about what was happening—this invasion, I mean. The fact of the matter is that when we first heard the news of this invasion it came to us as a complete surprise. In fact, even the news did not reach us properly, because communications were not working properly. And when this dawned upon us we were taken much aback. For a day or two we gave very serious thought to this matter, and we did not quite know what we could do about it. We were far out of reach. Physically it was difficult. We were terribly busy with our own troubles here. However, as this raid and invasion developed, news came to us of rapine, killing and arson that was going on in its train, and naturally there was a great public feeling in India. Public feeling was aroused and the House can well imagine what the state of public feeling in the State of Jammu and Kashmir was at the time. At that time we received independent appeals both from the Maharaja's Government and from the popular organization of Kashmir. The appeals were for help and for accession to India. We gave long and very anxious consideration to these, tried to consider and think out the implications etc. and we had to come to a quick decision. I remember, it must have been the 27th of October, after practically an all day's sitting in the evening we came to the conclusion that in spite of all the risks and dangers involved, we could not say 'No' to that appeal, and that we had to go there to help them. It was not an easy matter because we could only go by air. We did not even know if the one and only temporary air-field was working or was in the hands of our foes. There was no other way to get there immediately and time was important, because every day brought further news of the depredations of those raiders. We decided to go to their help with all its consequences and within 12 hours of our decision our troops were on the way by air. That was a fine piece of staff work on the part of our Army and Air Force. They arrived just in time; indeed it is possible that if they had arrived 24 hours late, the air-field would have been in the enemy's possession and that would have made matters much more difficult. From the air-field they went straight within a few miles to oppose these raiders. The raiders were driven back. Those raiders were supposed by us to be tribal people, no doubt, encouraged and abetted by

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Pakistan. At first we did not think it was a major military operation to drive out these tribal people. May I add here that before our forces reached there, probably before three or four days, the administration of Kashmir had completely collapsed. There was no administration. There was nobody—I cannot say definitely, but I hardly think there was any police force left or anything else. During these very critical days when this ruthless enemy was advancing on the famous city of Srinagar, the people of Srinagar had nobody to protect them, either big or small, and it was only the popular effort of the people, the volunteers of the National Conference that protected that city and protected it, not so much from armed forces—they could not do that because they had no arms—but they gave the necessary moral stimulus to the people and it is a fact worth remembering that when the enemy was within ten or twelve miles of Srinagar city, not a shop in Srinagar was closed. They were functioning. That showed the morale of the people and of the National movement at the moment of severe crisis. We drove back these raiders and when we drove them back to a place called Uri, where only a year or more earlier, I had been a prisoner of the Maharaja's Government, suddenly our forces discovered that a little beyond Uri they were not dealing with the tribal raiders, but with the armed might of the Pakistan army. That was a different matter that had to be dealt with on a different plane and so for the moment our armed forces stopped there.

Well, since then—this was in November 1947—war continued there and elsewhere in the State, on the Jammu side, on the Kashmir side and on the northern side. It continued for a year and a half nearly. Round about December when we saw that we were up against the regular forces of the Pakistan army, immediately we felt that this matter was likely to become much bigger than we had imagined, that it might very well lead us to a full-scale war with Pakistan.

I should like the House to remember that time because we must judge every event in the context of that period. It was a period when soon after Partition with all the troubles we had due to the Partition and even our armies and services, everything else was split up, we wanted to settle down and apart from that, so far as we are concerned, we are averse to war, if we can help it. When we saw this matter might well develop into a full-scale war against Pakistan, we decided to refer the matter to the United Nations, I think, round about December 1947. Our reference was that certain tribal people had invaded the Kashmir State territory, behaved ruthlessly etc., that they had come through Pakistan territory and that Pakistan had aided and abetted them in doing so. Our request to the United Nations or the Security Council was that they should inform Pakistan not to aid and abet these people. That was our request and that was

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the question we put. For the rest we proposed to deal with the situation ourselves. Our object was that this war should not spread in this way. We had, of course, asked Pakistan directly this question. But Pakistan had stoutly denied having anything to do with the matter. It was rather difficult to understand how a few thousand people could march through Pakistan territory almost unaware so far as the Pakistan Government was concerned. However they denied that the tribal people had marched through their territory with their help at all and they denied absolutely then and for some months afterwards, that any Pakistan force or any part of the Pakistan army had taken part in this Kashmir invasion. Later, we had plenty of evidence of this and in Delhi city a little museum was opened by our Defence people, showing the participation of the Pakistan army when they were doing it, because we had all kinds of captured materials, diaries of soldiers, insignia etc.

In 1948 these military operations went on fiercely throughout the winter. It is a very difficult time in those high valleys of the Kashmir State during winter when you have to go up 15,000 feet or so. Simultaneously, the Security Council came into the picture. At first, for many months they talked and argued in New York. We were surprised because the question we had put was a very simple one and admitted only of a simple answer. We had not asked them to take our word for it, if it was challenged, as it was challenged, by Pakistan. The obvious course was to find out for themselves if we were telling the truth or Pakistan was telling the truth in this matter. During these four or five years of discussion, negotiation and mediation that simple question that we put at the end of 1947 has not been answered and has not been considered in that way. It has been answered in a sense rather indirectly by the Resolution of the United Nations Commission that came here in 1948, when they said that a new situation had arisen because Pakistan troops were in Kashmir. They did say that, because till the very eve of this statement, Pakistan Government had firmly denied the fact that their troops were there. That is an amazing instance of continuing to repeat what was patently false, and without foundation and which was found to be so by this United Nations Commission.

If I may just for a moment go back a little, on 31st December 1948, a cease fire was agreed to between the parties. Since then, there has been no military operation on any major scale. There have been petty raids; but, otherwise, there has been no serious fighting. That has been the position since then. Apart from local troubles and infiltrations—if you take that kind of thing, there is plenty of that—the scene has shifted to the Security Council of the United Nations, the United Nations Commission, United Nations

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representatives and the like, who have been visiting India from time to time. I shall not go into that history.

The latest mediator has been Dr. Graham. Dr. Graham has been here twice and has had long consultations with us and with the Pakistan Government, and is at the present moment in New York still continuing these conversations. He confined his enquiries almost entirely to what he called the demilitarisation of the State. That word is hardly a happy word; but, nevertheless, for the sake of convenience we may use it. The position that we had agreed to when the United Nations Commission was here was this. In our desire to have peace, we had agreed to this, that, first of all, all Pakistan armies, auxiliaries and the rest should withdraw from every inch of State territory. In fact, we had laid the greatest stress on it, not merely for military reasons, but much more so far moral reasons. They had no business to be there. They had to withdraw. They had invaded. Even if Pakistan challenged the accession of Kashmir to India, and as the House knows, they have challenged it and called it a bogus accession and all that kind of thing—even leaving it apart, I shall deal with it a little later—whatever India's position in Kashmir might be, one thing is dead clear and dead certain, that Pakistan had no position there; moral, political, constitutional or anything else, and Pakistan had no business to send any forces or abet any forces going there. So that, we made it an essential condition pre-requisite of any kind of approach to a settlement with Pakistan, their withdrawal completely from that area which they had invaded and occupied. That was the thing agreed to in that Resolution of the United Nations Commission.

Meanwhile something else had happened and that was the building up in the western area of the State, which was occupied by Pakistan, of forces sometimes called the Azad Kashmir forces. They had built up local levies called Azad Kashmir forces. At that time, that is in 1948, we did not have too much information about that, although we knew about it. We asked that these levies should be disbanded and disarmed. We could not ask them to go away from the State because the people lived in the State. We asked that they should be disbanded and disarmed. The form that the Commission put it later in the Resolution was, large scale disbandment and disarmament of Azad Kashmir forces. There has always been an argument between us and Pakistan on that issue. We have insisted that this meant, and we meant, a complete disbandment and disarmament: complete in the sense as far as could be. Some people may not give up arms; some may hide them. That is a different matter. Officially, it must be complete. Pakistan did not agree to that interpretation. And, this has been one of the arguments coming

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in the way of the conversion of the Cease Fire into a Truce Agreement. This was what Pakistan had to do. On our side, we had agreed to withdraw the bulk of our forces, mark the word "bulk", from the State territory provided that we keep enough forces there to maintain the security of Kashmir from external invasion or any other internal troubles. It was always a condition that we must have enough forces, and we were the judges of that. We had said that we will withdraw the bulk of our forces, that is, when Pakistan armies had gone to Pakistan. We felt we could do that. This was more or less the position. Then came the Cease fire and these talks are taking place. These talks had got rather stuck up over the interpretation of the Resolutions passed in August 1948 and January 1949, by the United Nations Commission. I shall not go into those details.

Now, Dr. Graham has been dealing solely with this so-called demilitarisation problem. He laid down at one time 12 proposals. I think, as far as I can remember, we agreed to eight, about one or two, we wanted some change, and we did not agree to one or two.

May I go back a little? We had agreed to two proposals of the United Nations Commission in 1948 and 1949. The other things happened in between. But, at a later period, the Security Council passed a Resolution with which we did not agree and we made it perfectly clear in the Security Council that we could not possibly accept that Resolution because, apart from the fact that it went against all that we have stood for and all the assurances we had given to our people and the people of Kashmir, and our responsibility for the defence of Kashmir, we felt that it went against even the Resolutions passed by the Security Council itself at the instance of the Kashmir Commission. It was going back on that. So, we never accepted that Resolution, or parts of that Resolution. Dr. Graham was appointed in terms of it later. We made it clear to Dr. Graham....

Pandit L. K. Maitra (Nabadwip): Dixon's report preceded that.

Shri Jawaharlal Nehru: I am not going into all matters. Other people came in between. I am saying that we did not accept that Resolution. But, it has always been our point of view in the Security Council and elsewhere that we shall gladly—because we want peace and settlement—discuss this matter with anybody, certainly with a representative of the United Nations, and we are prepared to treat him as a mediator, but on no account are we prepared to agree to something which was imposed upon us. We are not prepared to have anything imposed upon us, and we are not prepared to accept anything which goes against our own responsibilities in this matter. So, when Dr. Graham came—he came here as a mediator, not in furtherance, so far as we are concerned, of that Resolution of the ~~Graham came—he came here as a mediator, not in furtherance, so~~

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Security Council which we had not accepted. I might add that throughout his stay here, his visits here, Dr. Graham has never mentioned that Resolution here. So, he concentrated his attention on the demilitarisation—what is called demilitarisation—of the State, and although we agreed to many things that he said, there has always been a gap between our position and the position taken up by Pakistan. That gap has not yet been bridged.

I should like to express, if I may, my admiration for Dr. Graham and his sincere efforts and extraordinary patience. He has, undoubtedly, I believe, tried his utmost to achieve results, he desires it, and in some matters he has made progress too, but a certain gap still remains. So far as we are concerned, if I may say so with all respect, we have also been very patient, and we are prepared to match our patience with others' patience, because the consequences of being impatient are bad. So, these talks are going on, and certain reports appear in the newspapers. They are sometimes partly true, partly not true; it becomes very difficult for us to deal with these reports which are not made by any official source, but get out nevertheless. Now, that is so far as Dr. Graham is concerned.

Now, to go back to the other aspect. The position in 1948 in regard to Kashmir and all other States, the acceding States, was that they had acceded on three basic subjects—Foreign Affairs, Defence and Communications. But, then, the other States in India, all of them almost, were more closely integrated—the process of closer integration started, and was achieved, very largely again at the instance of Sardar Patel. So that we had a picture in India of—practically we had removed any difference between the old States and the old Provinces. It is true that provisionally some States were called B States, some were called A States, and some C States, but that is exceedingly temporary, and that goes, that must go and it is going. In effect, that difference which marked a Province and an old State was gone, and India became a much more closely integrated State.

Now, while that process was going on in regard to other States, it did not go on in regard to Jammu and Kashmir State, deliberately, for a variety of reasons. Well, reason number one, because, one reason was, that the whole matter was in a fluid state, before the United Nations etc. Reason number two, equally important, that from the very beginning, for obvious factors, we had recognised that the position of Kashmir was somewhat different. Thirdly, that from the very beginning we had repeated that—from even before the Partition, I may inform the House—that no step will be taken

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about Jammu and Kashmir State without the concurrence and consent of the people of Kashmir. So, deliberately, Kashmir remained with those three subjects, and those three subjects only. Of course, when I say three subjects like Defence, Communications and Foreign Affairs, please remember that each subject itself is a category of subjects. It is not a small subject, it is a category, if you go into details. We did not touch that. And Sardar Patel was all this time dealing with these matters.

This came to an end in November, I think, of 1949 when we were designing our Constitution in the Constituent Assembly. Well, we could not leave everything quite vague and fluid there. Something had to be stated in our Constitution about Jammu and Kashmir State. That problem had to be faced by Sardar Patel. Now, he did not wish to say very much, he wanted to leave it, we all wanted to leave it in a fluid condition because of these various factors, and gradually to develop those relations, those legal and constitutional relations, and not to force the pace in any way. As a result of this, a rather unusual provision was made in our Constitution relating to Jammu and Kashmir. That provision is now in article 370 in Part XXI, Temporary and Transitional Provisions. Now, that article if you will look into it—I will not trouble you by reading it. If you refer to it, if you are interested, you will see the position that emerged at the time of our finalising our Constitution. And I might say that that article 370, although it is by no means a final article, nevertheless, it defined more precisely the relationship of that unit, that constituent unit, with the Union of India. After that, on the 26th of January, the President issued an Order in terms of that article 370, a President's Order defining the categories of subjects and parts of the Constitution that should be applicable to the Jammu and Kashmir State. Now, the position since the Constitution was framed, is thus contained in article 370 and in the President's Order following it. Article 370 was obviously of a transitional nature, and it allowed the President to make any additions to it, any variations to it, later on, the object being that if any change or addition was required, we need not have to go through the cumbrous process of amending our Constitution, the President was given authority to amend it in the sense of adding a subject, part of a subject, whatever it was, to the other subjects in regard to Kashmir. But in article 370, the old principle was repeated and emphasized that all these changes or any change required the approval of the Constituent Assembly of the Jammu and Kashmir State. Now, when this was put down in our Constitution, there was no Constituent Assembly of Jammu and Kashmir State, but we envisaged it. We had envisaged it for a long time.

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And if the Constituent Assembly was not there, then, it required the consent of the Jammu and Kashmir Government. So, that was the position.

The House will appreciate that throughout our position has been, from before Partition, that we will not take any step which might be considered a step in the nature of compulsion or coercion, that everything should flow with the consent of the people concerned. That was the basic position. In addition to that fact, when this became an international issue, we did not wish to do anything which might be thought as if we were trying to override or bypass any assurance that we had given to the United Nations. This rather fluid condition continued, and our relationship was fluid in this sense, namely legally fluid; otherwise there was no difficulty and we carried on. It might have continued some time longer, one year, or two years, or three years. There is nothing to compel us. We were getting on in an ordinarily friendly and co-operative way. There was no other difficulty. There were minor matters. We discussed them and decided them.

Then came actually the Constituent Assembly of Kashmir into being, and it came into being with our goodwill some time last year. When the subject that the first elections to the Constituent Assembly were going to take place was mentioned, there was a good deal of opposition to this idea in some foreign countries, which was voiced in the Security Council. And I need not say that Pakistan disliked it intensely. However, I saw no reason why and I see no reason now as to why any foreign country should interfere with the internal relationship of Kashmir with India, and what the people of Kashmir do to themselves. If other countries objected to that, we objected strongly to their objection, and we carried on. So, this Constituent Assembly came into existence last year and it has done various things, various important reforms it has introduced, but then it set down to itself the major task of drawing up a Constitution for the Jammu and Kashmir State. Now immediately we were faced with this problem. It is all right to have a fluid state for some time, but when you draw up a precise Constitution you have to be precise. This was the background and the reason for the talks we have been having amongst ourselves and with the leading members of the Jammu and Kashmir Government. We had no desire to make the relationship as a static unchanging, or a finalised one, because the position is a dynamic one, a changing one. Nevertheless, it was perhaps too fluid and once a Constitution is going to be framed, a greater precision was necessary and it was obviously necessary that there should not be any contradictory provision in

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that which might not conform to the provisions of our Constitution. Hence these talks. Well, we had these talks for the last few days and I am going to tell you now what has emerged from these talks.

But before I say that, I would like to remind you that one of the first things that this Constituent Assembly did was to tackle the land reform question, and in the course of a few months, they have successfully accomplished them or almost accomplished them. I confess that I look with some envy on the speed and celerity with which they have performed this task there, considering the enormous trouble we have had in the various States in India, the difficulties, the obstructions and the delays that we have had to face, and so I became a little envious when I saw how this was done in Kashmir State. Now I might just give you some indication of what was done there. It is said that they have expropriated the landlords there. That is not quite correct. They have put a ceiling on land holdings, the ceiling is roughly 23 acres, plus orchards. They did not touch orchards. They have allowed about 23 acres to remain with every person possessing land, plus the orchards he possesses. They have not touched them at all. And the House ought to remember that orchards are very important in Kashmir which is a great fruit-growing country. Then there are some other lands, grazing lands etc; they are also still with the landholders. That matter will be considered further later. I said that each person has been allowed 23 acres. It should be remembered that the average holding of land in Kashmir State is barely two acres, and so the 23 acres is a fairly generous holding ceiling that has been given.

Now in regard to the talks we have had, the position, obviously the admitted position, is that the Jammu and Kashmir State is a constituent part or unit of the Indian Republic. It is a unit of India and is therefore a part of the territory of India. That is the basic position.

The question of citizenship arose obviously. Full citizenship applies there. But our friends from Kashmir were very apprehensive about one or two matters. For a long time past, in the Maharaja's time, there had been laws there preventing any outsider, that is, any person from outside Kashmir, from acquiring or holding land in Kashmir. If I may mention it, in the old days the Maharaja was very much afraid of a large number of Englishmen coming and setting down there, because the climate is delectable and acquiring property. So, although most of their rights were taken away from the Maharaja under the British rule, the Maharaja stuck to this that nobody from outside should acquire land there. And

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that continues. And in the State subjects notification by the Maharaja, they have defined four grades of subjects, Class number one, Class two, Class three and Class Four. And unless you come in one of these classes, you just cannot acquire land there, or any immovable property. So the present Government of Kashmir is very anxious to preserve that right because they are afraid, and I think rightly afraid, that Kashmir would be over run by people whose sole qualification might be the possession of too much money and nothing else, who might buy up and get the delectable places. Now they want to vary the old Maharaja's law to liberalize it, but nevertheless to have checks on the acquisition of lands by persons from outside. So far as we are concerned, I agree that under article 19, clause (5), of our Constitution, we think it is clearly permissible both in regard to the existing law and any subsequent legislation. However, we agreed that this should be cleared up. The old State's subjects definition gave certain privileges regarding this acquisition of land, the services, and other minor things, I think, state scholarships and the rest. So, we agreed and noted down this:

> "The State Legislature shall have power to define and regulate the rights and privileges of the permanent residents of the State, more especially in regard to the acquisition of immovable property, appointments to services and like matters. Till then the existing State law should apply."

Then there was another matter relating to citizenship, because owing to these troubles in Kashmir since 1947 and a little before and after, there have been large numbers of people who have gone out of Kashmir but want to return. So there must be provision made for them to return. In fact in our own Constitution, some provision has been made, and I might inform the House that this question was raised early this year or last year about the inclusion of a large number of migrants from East Bengal. We could not include them in our electoral rolls, because they came too late. We are including them now. Those that fulfil the conditions will all come in. So those who had gone away from Kashmir into Pakistan or elsewhere and who normally speaking might not be eligible for citizenship should be provided for, if they want to return. So we said:

> "Special provision should be made in the laws governing citizenship for the return of those permanent residents of Jammu and Kashmir State, who went to Pakistan in connection with the disturbances of 1947 or earlier in fear of them, and could not return. If they return they

should be entitled to the rights and privileges and obligations of citizenship."

Then came the question of fundamental rights. Now there was general agreement that there should be fundamental rights and these fundamental rights should apply to the State. But again there were great apprehensions in the minds of our friends from Kashmir. First of all, the question was how far these fundamental rights might not come in the way of their land legislation now or any later development of it. Certainly we did not want them to come in the way of their land legislation. We like their land legislation. We thought it was very good. In fact it is quite impossible to upset a thing that has been done, but we said the matter should be cleared.

The second thing was this. Owing to all this business of invasion of Kashmir State, war, cease-fire, all kinds of continuing tensions, difficulties due to infiltration etc.—constant attempts are made by infiltration, espionage cases are repeatedly heard, there is sabotage and the rest; but if you go to that State, you find normalcy there, that is to say, the State is functioning adequately normally, but behind that normalcy there is this tension, constant tension of an enemy trying to come in to create trouble, to disturb, and all that. And the State Government has to be wary and watchful all the time, and so we were told that it was possible that some part of the fundamental rights provisions might very well hamper the activities of the State Government from taking these precautions and these measures. We agreed that it was essential and in the interests of Kashmir situated as the State is now, that the State Government should have that authority. So subject to this, further consideration can be given to it as to how this could be done, so that a fuller consideration of this and like matters was necessary so that the fundamental rights might be applied with such modifications and exceptions as might be considered necessary from this point of view, and agreed upon.

Then in regard to the Supreme Court, it was agreed that the Supreme Court should have original jurisdiction in respect of disputes mentioned in article 131 of the Constitution of India. It was further agreed that the Supreme Court should have jurisdiction in regard to fundamental rights which are applied to that State. On behalf of the Government of India we recommended that the advisory tribunal in the State which is designated as His Highness's Board of Judicial Advisers should be abolished, and the jurisdiction exercised by it should be vested in the Supreme Court of India, that is to say, that the Supreme Court should be the final Court of Appeal in all civil and criminal matters as laid down

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in the Constitution of India. The Kashmir Government delegation had no objection to this. They were prepared to agree but they said they would like to consider the matter in some detail further.

Now I come to the question which has been much discussed and referred to in the newspapers, the question of the Head of the State.

I might mention that apart from past history when this Constituent Assembly met in Kashmir, the inaugural address to that Assembly stated quite clearly some of the policies that they were going to pursue, and among these policies was the election, by democratic process, of the Head of the State. That has been the declared policy of the National Conference Organisation in Kashmir for a long time. We had no objection with regard to the enunciation of that principle then. Now, after careful consideration—because we have always had to consider two matters: firstly, to give effect to the wishes of the people of the State and secondly, to give effect to our own Constitution—we have come to an agreed formula. Of course, you will not attach too much importance to the language—a word here or there. For legal and constitutional purposes the words may be changed, but it describes the way we have been thinking and what we have agreed to. Now it was agreed: (1) that the Head of the State shall be the person recognised by the President on the recommendation of the Legislature of the State. (How the Legislature of the State recommends is a matter for the Legislature. Whether it is by the process of election or not it is for them to decide; it may be by the process of a majority, or two-thirds majority; it is entirely for them to decide. Anyhow they recommend and then it is for the President to recognise.) (2) He, that is, the Head of the State, shall hold office during the pleasure of the President. (3) He—the Head of the State may by writing under his hand addressed to the President, resign his office. (4) Subject to the foregoing provisions of this article, the Head of the State shall hold office for a term of five years from the date he enters upon his office, provided that he shall, notwithstanding the expiration of his term, continue to hold office until his successor enters upon his office. That is so far as the Head of the State is concerned.

Then there has been a good deal of misunderstanding in regard to the National Flag. This has been cleared up, I think, adequately by public statements made. Nevertheless, we thought that this should be further cleared up. Sheikh Abdullah, the Prime Minister of Jammu and Kashmir State, had stated publicly that the question did not arise so far as they were concerned, because the National Flag was the supreme flag and it had exactly the same status

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and position in the Jammu and Kashmir State as in any other part of India. The State Flag was in no sense a rival to the National Flag, but for historical and sentimental reasons connected with their struggle for freedom in Kashmir, they wanted this State symbol to continue. This was agreed to. It was added that this should be made clear in a formal manner, preferably by the Constituent Assembly of the State.

Then in regard to the President of India, it was agreed that the powers to reprieve and commute death sentences etc. should belong to the President of India.

There has been some talk about financial integration. It was decided that such financial arrangements between the State and the Government of India should be considered further and details worked out. The position, as I said, is a dynamic, changing one. Matters have to be gone into in some detail; so whatever the financial arrangements might be, we shall gradually work them out.

Then there is the question of emergency powers contained in our Constitution, more especially in our article 352 of the Constitution. It was agreed to; I will remind the House what article 352 is: in case of invasion, external danger or internal disturbances, the President has power to declare a state of emergency, and then various consequences flow from it. This Parliament is then seized of the position. Now this was agreed to; but the friends from Kashmir were slightly apprehensive of what 'internal disturbances' meant there. For the rest they have said, of course, if there is a grave emergency this should happen. So, with regard to adding some words to clear up, not to clear up that matter but rather to bring in the fact that in the case of internal disturbances any action taken should be with the concurrence of the Government of the State, it was agreed that article 352 of the Constitution should apply to the State with the addition at the end of the first paragraph of the following words:

> "but in regard to internal disturbances, at the request or with the concurrence of the Government of the State".

That is, the state of emergency will be declared with the concurrence of the Government of the State.

These are the principal things that have been discussed and I think that we have arrived at very satisfactory decisions—agreements which are in consonance with the wishes of the people of Kashmir and in consonance with our Constitution. I would repeat

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that there is nothing final about this and gradually we can fill in other details later. I presume that at the present moment, as I said, the relationship of Kashmir with the Union of India is governed more or less by article 370 of our Constitution. Now the accession has been complete. There is a certain confusion in people's minds. The accession is complete in law and in fact, Jammu and Kashmir State is a constituent unit like any other, it is a part of the territory of India, the people of Jammu and Kashmir are citizens of India like any other. But the fact that the subjects to which Jammu and Kashmir has acceded are limited, or less than those applying to other States, that fact produces this misunderstanding as if there was partial accession. That is not so: Accession is quite complete. In fact, all the States acceded only in regard to these three subjects to begin with. It may be that we may have more subjects later, but we are proceeding and we propose to proceed always in such matters with the consent of the other parties concerned. Now, presumably the President of the Union will have to issue some Order under article 370 of the Constitution to give effect to any of these modifications or changes that we have suggested.

I am very grateful to you, Sir, and to the House for the indulgence shown to me.

GIPD—L —568 PS—26-7-52—850.

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TOP SECRET No. 132/52

96a

(2) 209

7th August 1952

My dear Rajkumari,

I am sending you the file. The letters are flagged. They are five in all. After reading them, kindly return the file.

Re: Kashmir

Yours sincerely,

R.P.

Rajkumari Amrit Kaur,
Minister for Health,
New Delhi.

Has the file been received back, please?

Issued 7.8.52

AS

9.8.52

Yes. It is with the President 9/8

PA to P.M. Sir

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MINISTER FOR HEALTH
INDIA
NEW DELHI

8. 8. 52

Personal & Confidential.

My dear Rajen Babu,

I am greatly indebted to you for so kindly allowing me to see your papers in regard to Kashmir. I have learnt much from your note & I am glad that there is some one who does stand up for fair treatment of those who, whatever their past failings or they were the victims of circumstances also, must not be ill treated by us.

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Truly politics is a dirty game of expediency cuts across morality in a horrible manner! One can only hope & pray that in the end Kashmir will really accede to India as all the other States have done.

I look forward to my interview on the 12th.

Yours v. Sincerely
Amrit Kaur.

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Copy made for R.P. 16/8/62

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SECRET.

New Delhi,
August 20, 1952.

My dear Mr. President,

I am leaving for Kashmir early tomorrow morning and I shall be out of Delhi for eight days. I hope to return on the forenoon of the 29th September. In Kashmir I intend going to a somewhat remote place, near Sonmarg, and I shall not be easily accessible for messages, though very urgent messages might reach me by special courier. I am trying to take fairly complete rest there for a few days. I shall therefore be unable to have my usual interview with you next week.

I have kept you in touch with developments in regard to the Jammu and Kashmir State. In the course of the last two months or so, we have had prolonged discussions and correspondence with the Kashmir Government on this subject. Many differences of opinion were ironed out in the course of these discussions. As you are aware, I reported to Parliament the result of these discussions and both the House of the People and the Council of States were pleased to signify their approval.

The Constituent Assembly of the J. & K. State also expressed its approval of the settlement arrived at in regard to certain basic issues. This Constituent Assembly is now considering a resolution moved today about the Head of the State. The resolution is based on one part of our agreement. The wording of this resolution has also been discussed by us with the Kashmir Government. As originally framed, there were some parts which we considered unnecessary or improper. These parts have now been deleted. Some parts still remain which were not in our opinion very necessary at this stage. But in the balance we have agreed to this resolution. I have no doubt that it will be passed by the J. & K. Constituent Assembly in the course of the next two or three days. I enclose a copy of this resolution as it has been sent to us from Srinagar.

✓ pages 51-52 supra

The last part of the resolution states that it should be forwarded to the Government of India for favour of appropriate action.

We have therefore to consider now the form and content of the action that we should take in this matter. The Minister of States is considering this matter and will report to you what action he is taking. It is his intention to write ~~so~~ to Maharaja Hari Singh, drawing his attention to the developments that have taken place and more particularly to the resolution now being considered by the J. & K. Constituent Assembly. As a consequence of this resolution and of the general agreement of the Government of India in regard to the future Head of the State, it is clear that Maharaja Hari Singh cannot continue as such. The proper course for him would be to abdicate. In the event of his not doing so, it will become necessary for you not to recognise him as such. The Minister of States will keep you fully informed of further developments.

The developments in the J. & K. State have naturally raised wider issues about Rajpramukhs elsewhere as well as

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their privy purses. There is widespread and fairly strong feeling in Parliament on this subject. We do not propose however to take any general action in this matter at this stage, but consideration will have to be given to this before very long.

Yours sincerely,

Jawaharlal Nehru

Dr. Rajendra Prasad,
President,
Rashtrapati Bhavan,
New Delhi.

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WHEREAS this Assembly adopted the recommendations contained in the Interim Report of the Basic Principles Committee presented on the 10th of June, 1952;

AND WHEREAS by its resolution, dated the 12th June, 1952, this Assembly directed that the recommendations so adopted be implemented and for that purpose charged the Drafting Committee to submit appropriate proposals;

NOW, therefore, in pursuance of the resolution dated the 12th June, 1952, and having considered the report of the Drafting Committee, this Assembly resolves:-

1. (i) that the Head of the State shall be the person recognised by the President of the Union on the recommendation of the Legislative Assembly of the State;

(ii) he shall hold office during the pleasure of the President;

(iii) he may, by writing under his hand, addressed to the President, resign his office;

(iv) subject to the foregoing provisions, the Head of the State shall hold office for a term of five years from the date he enters upon his office.

Provided that he shall, notwithstanding the expiration of his term continue to hold the office until his successor enters upon his office;

2. that the recommendation of the Legislative Assembly of the State in respect of the recognition of the Head of the State specified in sub-para (i) of paragraph 1, shall be made by election;

3. that the method of election to, qualifications for and all other matters pertaining to the office of the Head of the State shall be prescribed in the Constitution, and until these are so prescribed, shall be set out in the Rules contained in the Schedule annexed to this Resolution;

4. that the Head of the State shall be designated as the Sadar-i-Riyasat.

5. that the Sadar-i-Riyasat shall be entitled to such emoluments, allowances and privileges as may be prescribed in the Constitution, and pending the framing of the Constitution, to such emoluments, allowances and privileges as may be decided by this Assembly by a separate resolution;

6. that the Sadar-i-Riyasat shall exercise such powers and perform such functions as may be prescribed in the Constitution to be framed by this Constituent Assembly, and until such Constitution is framed he shall exercise such powers and perform such functions as have hitherto been exercised by His Highness under the Jammu & Kashmir Constitution Act of 1996, as amended by Act No.XVII of 2008;

7. that in the event of the occurrence of a casual vacancy in the office of the Sadar-i-Riyasat by reason of his death, resignation or otherwise, the powers and functions exercisable by the Sadar-i-Riyasat shall, until the assumption of office by the newly elected Sadar-i-Riyasat in accordance with the procedure laid down in this resolution, be exercised and performed by the person

contd...

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recommended by the State Government for recognition as officiating Sadar-i-Riyasat to the President of India; and

8. that this Assembly shall in due course provide a suitable remedy in respect of violation of the Constitution or gross misconduct by the person for the time being holding the office of the Sadar-i-Riyasat.

The Assembly further resolves:-

that the Prime Minister of Jammu and Kashmir State is authorised to communicate a copy of this resolution to the Government of India for favour of appropriate action to enable its being given effect to.

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D.O. No: 30/75/52-Him.) 53

MINISTER FOR STATES,
INDIA.

TOP SECRET & PERSONAL.

Copy made for R.P. 16/8/52

New Delhi, 26.8.1952.

My dear Rajen Babu,

I have received today from Jawaharlalji a copy of a letter dated the 24th instant which he has received from Shaikh Abdullah. Therewith Shaikh Abdullah has transmitted formally a copy of the Resolution passed by the Constituent Assembly. The concluding paragraph of that Resolution instructs the Prime Minister of Jammu and Kashmir to communicate the Resolution to the Government of India for appropriate action. Shaikh Abdullah has also sent some drafts of the changes which he suggests in article 370. Inasmuch as this matter is of some urgency, I am anxious to have an interview with you before I left for Pepsu. I am herewith sending Shaikh Abdullah's letter with its enclosure for your perusal.

page 54 infra

I wrote a letter some time ago to Maharaja Hari Singh in Poona, but have received no reply from

him ... ...

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him so far.

Yours sincerely,

C. Rajagopalachari

Dr. Rajendra Prasad,
President of India,
Rashtrapati Bhavan,
NEW DELHI.

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copy marked RP

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PRIME MINISTER
Jammu & Kashmir.

Srinagar
August 24, 1952.

My dear Panditji,

I enclose a copy of the Resolution regarding the termination of hereditary rule, substitution in its place of the system of elected Head of the State and the procedure regulating it, passed by the State Constituent Assembly on the 21st of August, 1952, which has been forwarded to me by the office of the Constituent Assembly for transmission to the Government of India. As you know the last paragraph of the Resolution requires me to communicate a copy of this Resolution to the Government of India for favour of appropriate action to enable its being given effect to.

The idea is to summon the Legislative Assembly on the 15th of September, 1952, when election to the office of Sadar-i-Riyasat will be held. I hope necessary amendments to article 370 of the Constitution and the provisions contained in the Constitution (Application to Jammu and Kashmir) Order, 1950, issued thereunder on the lines indicated in the drafts attached herewith would be ready for issue on the date when the election takes place. A note explaining these amendments is also enclosed. It would be appropriate if abdication of the Maharaja or withdrawal of his recognition, election of the Sadar-i-Riyasat by the Constituent Assembly and his recognition by the President of India - all these three steps - could be announced on the same date simultaneously. Assumption of office by the Sadar-i-Riyasat should also take place on that date.

I would feel grateful if it could be made possible to show us before issue the draft orders of the President of India under article 370 of the Constitution.

Yours sincerely,

Sd/- S.M. Abdulla

Shree Jawaharlal Nehru,
Prime Minister, India,
Camp Sonamarg - Kashmir.

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FIRST DRAFT NOTIFICATION.

In exercise of the powers conferred by clause (3) of article 370 of the Constitution of India, the President on the recommendation of the Constituent Assembly of the State of Jammu & Kashmir is pleased to direct that for explanation in clause (1) of article 370 the following Explanation, should be substituted, namely:-

"Explanation- For the purposes of this article, the Government of the State means the person for the time being recognized by the President as the Sadar-i-Riyasat of Jammu and Kashmir acting on the advice of the Council of Ministers for the time being in office."

The President is further pleased to declare that the aforesaid modification shall be operative from

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SECOND DRAFT NOTIFICATION

In exercise of the powers conferred by clause (1) of article 370 of the Constitution of India, the President, in consultation with the Government of the State of Jammu and Kashmir, is ~~is~~ pleased to make the following Order, namely :-

1. (1) This order may be called the Constitution (Application to Jammu and Kashmir) (Second Amendment) Order, 1952.

(2) It shall come into force at once.

2. In the Second Schedule to the Constitution (Application to Jammu and Kashmir) Order, 1950 -

(i) In the entry in the second column relating to Part XIX after the figure "365", the words, brackets, letter and figures "and sub-clause (b) of clause (21) of article 366" shall be inserted, and

(ii) In the entry in the second column relating to Part XXI for the word and figures "and 378" the figures and word "378 and 386" shall be substituted.

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NOTES REGARDING THE AMENDMENTS

FIRST DRAFT : This incorporates an amendment to the Explanation in clause (1) of article 370 of the Constitution of India. It is a mere consequential change to give effect to the provisions of the Resolution passed by the Constituent Assembly. This notification can be issued by the President of India in exercise of the powers vested in him under clause (3) of article 370.

SECOND DRAFT : Apart from article 370 reference to the Head of the State or the Rajpramukh in relation to the State of Jammu and Kashmir is found in articles 366 (21) (b) and 386 of the Constitution of India which apply to the State by virtue of the Constitution (Application to Jammu and Kashmir) Order, 1950. In view of the fact that the State has its own Constitution Act, the right of the people of the State to frame their own Constitution has been conceded by the Constitution of India and the status of the Maharaja as the Head of the State has been specified in the Explanation to article 370 of theConstitution of India, the provisions referred to above have little significance in so far as this State is concerned. The former i.e. article 366(21)(b) reproduces the provisions contained in the Explanation to clause (1) of article 370 and introduces the term 'Rajpramukh' for the Maharaja of the State. The latter, i.e. article 386 provides for the appointment of Council of Ministers of a Rajpramukh. The provisions in this behalf for the Council of Ministers of this State exist and appropriately find place in the Constitution of the State and the State Constituent.

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WHEREAS this Assembly adopted the recommendations contained in the Interim Report of the Basic Principles Committee presented on the 10th of June, 1952;

And WHEREAS by its resolution, dated the 12th June, 1952, this Assembly directed that the recommendations so adopted be implemented and for that purpose charged the Drafting Committee to submit appropriate proposals;

NOW, therefore, in pursuance of the resolution dated the 12th June, 1952, and having considered the report of the Drafting Committee, this Assembly resolves:-

1. (i) that the Head of the State shall be the person recognised by the President of INDIA on the recommendations of the Legislative Assembly of the State;

(ii) he shall hold office during the pleasure of the President;

(iii) he may, by writing under his hand, addressed to the President, resign his office;

(iv) subject to the foregoing provisions, the Head of the State shall hold office for a term of five years from the date he enters upon his office, provided that he shall, notwithstanding the expiration of his term, continue to hold the office until his successor enters upon his office;

2. that the recommendation of the Legislative Assembly of the State in respect of the recognition of the Head of the State specified in sub-para (i) of paragraph 1, shall be made by election;

3. that the method of election to, qualifications for and all other matters pertaining to the office of the Head of the State shall be prescribed in the Constitution, and until these are so prescribed, shall be as set out in the Rules contained in the Schedule annexed to this resolution;

4. that the Head of the State shall be designated as the Sadar-i-Riyasat;

5. that the Sadar-i-Riyasat shall be entitled to such emoluments, allowances and privileges as may be prescribed in the Constitution and pending the framing ofthe Constitution, to such emoluments, allowances and privileges as may be decided by this Assembly by separate resolution;

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6. that the Sadar-i-Riyasat shall exercise such powers and perform such functions as may be prescribed in the Constitution to be framed by this Constituent Assembly, and until such Constitution is framed, he shall exercise such powers and perform such functions as have hitherto been exercised by His Highness under the Jammu and Kashmir Constitution Act 1996, as amended by Act No. XVII of 2008;

7. that in the event of the occurance of a casual vacancy in the office of the Sadar-i-Riyasat by reason of his death, resignation or otherwise, the powers and functions exercisable by the Sadar-i-Riyasat shall, until the assumption of office by the newly elected Sadar-i-Riyasat in accordance with the procedure laid down in this resolution, be exercised and performed by the person recommended by the State Government for recognition as officiating Sadar-i-Riyasat to the President of India; and

8. that this Assembly shall in due course provide a suitable remedy in respect of violation of the Constitution or gross misconduct by the person for the time being holding the office of the Sadar-i-Riyasat.

This Assembly further resolves:-

That the Prime Minister of Jammu and Kashmir State is authorised to communicate a copy of this resolution to the Government of India for favour of appropriate action to enable its being given effect to.

Sd. M. A. Beg,
Chairman,
Drafting Committee.

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SCHEDULE

QUALIFICATIONS: 1. No person shall be eligible for election to the office of the Sadar-i-Riyasat, unless he

(a) is a State Subject of Class I as defined in the State Subject Definition Notification No. 1-L/84, dt. 20th April, 1927.

(b) has completed the age of 21 years on the date of filing the nomination paper,

(c) is not subject to any of the disqualifications specified in rule 4 of the Jammu and Kashmir Constituent Assembly Election Part I Rules 2008, for being chosen as a member of the Constituent Assembly.

2. The Sadar-i-Riyasat shall not be a member of the Legislative Assembly of the State, or if a member of the Legislative Assembly of theState, he shall be deemed to have vacated his seat in the House on the date he enters upon his office as the Sadar-i-Riyasat.

3. The Sadar-i-Riyasat shall hold no other office of profit.

METHOD OF ELECTION. 4. (1) When election to the office of the Sadar-i-Riyasat becomes necessary, the speaker of the State Legislative Assembly shall fix time and date for the holding of the election and shall cause a notice thereof to be sent to every member.

(2) At any time before noon on the date preceding the date so fixed, any member of theState Legislative Assembly may nominate another person for election by delivering to the Speaker or any Officer authorised by the Speaker in this behalf, a nomination paper in the form prescribed in the Annexure to this Schedule signed by himself as proposer and by another member as a seconder.

(3) Any person who has been so nominated may withdraw his candidature in writing addressed to the Speaker at any time before the Assembly proceeds to hold the election.

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(4) At the time fixed for election under sub-clause(1), the Speaker or in his absence the person Presiding shall read out to the Assembly the names of the persons who have been duly nominated and have not withdrawn their candidature together with those of their proposers and seconders, and, if there is only one such candidate, shall declare him to be duly elected. If there is more than one such candidate, the Assembly shall proceed to elect the Sadar-i-Riyasat by ballot.

(5) Where there are only two candidates for election, the candidate who obtains at the ballot the larger number of votes shall be declared elected. If they obtain an equal number of votes, the speaker or in his absence the person presiding shall exercise his casting vote and the person in whose favour such vote is cast shall be declared elected.

(6) Where more than two candidates have been nominated and at the first ballot no candidate obtains more votes than the aggregate votes obtained by the other candidates, the candidate who has obtained the smallest number of votes shall be excluded from the election, and balloting shall proceed, the candidate obtaining the smallest number of votes at each ballot being excluded from the election, until one candidate obtains more votes than the remaining candidates, or than the aggregate votes of the remaining candidates, as the case may be, and such candidate shall be declared elected.

(7) Where at any ballot any of three or more candidates obtain an equal number of votes and one of them has to be excluded from the election under sub-clause (6), the determination, as between the candidates whose votes are equal, of the candidate who is to be excluded shall be by the casting vote of the Speaker or in his absence of the person presiding.

5. The Prime Minister of the State shall communicate the name of the person duly elected by the Assembly as the

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Sadar-i-Riyasat to the President of India for being recognized as the Sadar-i-Riyasat.

OATH. 6. The Sadar-i-Riyasat shall, before ~~xx~~ entering upon his office, make and subscribe in the presence of Chief Justice of the State High Court or in his absence any judge of the High Court available an oath or affirmation in the following form namely:-

> "I A.B swear in the name of God/Solemnly affirm that I will faithfully execute the office of the Sadar-i-Riyasat, Jammu Wa Kashmir and will to the best of my ability preserve, protect and defend the Constitution of the State as by law established and that I will devote myself to the service and well-being of the people of the State."

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ANNEXURE TO THE SCHEDULE

Nomination paper.

Election to the Office of the Sadar-i-Riyasat.

We hereby nominate .....

(Full name & address of candidate)

---------- as a candidate for election to the office of the Sadar-i-Riyasat, Jammu and Kashmir.

We have verified, and do hereby declare, that the said candidate is eligible for election as the Sadar-i-Riyasat under the Schedule to the Resolution dated .....August, 1952, of the Constituent Assembly.

Signature of proposer

Name of Constituency _____

Date _____

Signature of Seconder

Name of Constituency

Date _____

I assent to this nomination.

Signature of candidate _____

Date _____

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My dear Dr. Rajendra Prashadji,

I am enclosing herewith a memorandum on my case for your kind consideration and such action as you may think just and fair.

With kindest regards,

Yours sincerely,

118, Koregaon Park,
Poona.
29th August, 1952.

Recd. 1.9.52

President

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Memorandum Submitted to

Dr. RAJENDRA PRASAD
PRESIDENT OF INDIA,
NEW DELHI.

by

H. H. the Maharajadhiraj of Jammu and Kashmir.

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MEMORANDUM

Poona, August , 1952.

Dr. Rajendra Prasad,

President of India,

New Delhi.

Sir,

I am making a direct approach to you in the matter of the affairs of the State of Jammu & Kashmir and its Ruler as the situation has become acute owing to the rapid developments that are taking place and the further steps which are being taken in the next few days as these will vitally affect me personally apart from the repurcussions they will have on the subjects of the State.

2. It is necessary to set out very briefly the events that have happened so far as the State of Jammu & Kashmir is concerned since my accession to the Gaddi.

3. I became the Ruler of the State in 1925. I then found that the British had strengthened their hold on the State by taking advantage of certain circumstances because, it being a border State of great strategic and political importance, they wanted it to be completely in their grip. The British created the myth of paramountcy without any historical or political sanctions and exploited the State as a set-off against the fast approaching political awakening and urge for freedom in what was then known as British India.

4. Realizing what was coming, I took it upon myself to shake off the British yoke by insisting that the relations of the State with the British should be governed by the Treaty and all other strings which had been attached to such relationship with a view to gain domination over the State should be removed. I succeeded in my efforts to a large extent but incurred the wrath of the British who thenceforth became openly hostile to me.

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5. Simultaneously with this, I started taking measures to ameliorate the condition of my people and to organize my Government on progressively democratic lines. I enacted laws to relieve rural indebtedness and to improve generally the lot of the agriculturist and the economic and social condition of my people. Some of these enactments were resented by my Hindu subjects who thought that their interests were being sacrificed in the cause of Muslim uplift. I established industries and made provisions for education and medical relief far in advance of any other State. Special provision was made for the educational advancement of Muslims who were then considered backward. I was even more enthusiastic as regards the better organisation of my Government. In this, I had the assistance of men of unquestionable integrity and ability from British India as my Prime Ministers and other Ministers and heads of the various Departments. It will not be out of place to name a few of them, such as, Raja Harikrishen Kaul, Mirza Sir Zaffarali, Mr. V. N. Mehta, Mr. Vijahathusein, Sir Burjor Dalal, Sir Abdus-Samad Khan, Sir Lal Gopal Mukerji, Mirza Jafferali, Sir K. N. Haksar, Sir N. Gopalaswami Aiyangar, Sir B. N. Rau, As a result, the administration of the State in the matter of efficiency and organization was better than even in some of the Provinces of British India. One further fact to which I wish to draw your attention in this connection is that I invariably acted on the advice of such Ministers and did not interfere or overrule their directions. It therefore follows that if any fault is now to be found with the administration of the State and/or the policies then pursued the blame cannot be laid at my door alone. It is signifiant that for six years (1938 to 1943) Shri N. Gopalaswami Ayyangar was the Prime Minister of the State and he will bear me out that I never interfered with his policies and decisions adopted and taken from time to time. Consequently with my desire to give to the people of the State complete self-government, I discussed in 1945 with my Prime Minister, Sir B. N. Rau, in the presence of Sir Tej Bahadur Sapru and Sir Kailas N. Haksar, the inauguration in the State of Full Responsible Government with Provincial Autonomy and a Central Government comprised of Representatives of the Provinces and a Board of Judicial Advisers with myself as the Constitutional Head. I was prepared to do this even with the knowledge that it would not be relished by the British. Sir B. N. Rau wanted this to be put into execution within the next fortnight. I

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was of opinion that it should be done in about six months so as to enable us to complete the Scheme. The news leaked out, there were intrigues, position became very difficult and Sir B. N. Rau left shortly thereafter.

6. The finances of the State were governed on modern principles. My expenditure was strictly limited and kept separate and distinct from the State finances and proper and well defined limits were laid down as between my personal and private matters and matters of the State. Thus, I had a well organized and efficient Executive, a democratically elected Legislature, an independent judiciary, definite policies for expansion of education, medical relief and all other essential features of a progressive State. The eminent administrators and Judges who worked for the State from time to time will bear testimony to this.

7. All that I did aggravated the hostility of the British towards me as they were not sincerely inclined towards ameliorating the conditions of the people or for the freedom of the Country.

8. In those days, the Rulers of Indian States were judged by the condition and feelings of their subjects and I can say, without fear of contradiction, that the people of my State were content and had no cause for grievances against me or the administration of the State.

9. It is not unknown that trouble started in the State in 1931 and what has on occasions been described by so called 'national leaders' of the State as "the Freedom Movement" was engineered by elements outside the State under the instigation of the British. The movement in the beginning was a religious movement with slogans like "Down with Hindu Raj" and "Islam in danger." The leaders of that movement were men who now figure as Ministers and Administrators in Azad Kashmir under Pakistan such as, Ch. Ghulam Abbas and Moulvi Yousuf Shah and some others. To gain sympathy and co-operation from those fighting for freedom from the British yoke in British India, the Muslims who were running this movement gave it the name of "National Conference." The name was adopted also to fall into line with the movement carried on in other States in the name of the "States People Conference" and to take advantage of the declining prestige of the British. The movement thus gained the sympathy of the Indian National Congress. It became known in

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British India as the National Movement in the Jammu & Kashmir State.

10. These facts clearly shew that my people had no grievance against me, that the movement was started by disgruntled people with the British behind them and that those in charge of the movement gained the confidence and sympathy of the Indian National Congress by adopting the name of the "National Conference."

11. I have been accused by the Prime Minister of not listening to the advice of the Congress leaders during the fateful period 1946-47. I deny that charge. In 1946 when the leaders of the Indian National Congress formed the Viceroy's Cabinet for the Interim Government. I had occasion to meet Mahatma Gandhi and Shri J. B. Kirpalani, the then President of the Indian National Congress, when they both visited the State. Mahatma Gandhi suggested that I should have the backing of the people, in whatever I did, Shri J. B. Kirpalani suggested the immediate release of Shaikh Abdullah because the nominees of the National Conference who were in the Government had resigned. I pointed out to them that I had already set up a constitutional Government which included two nominees of the National Conference and that it was not then possible to entrust the Government entirely in the hands of one group, viz., the National Conference. I said to them that I was willing to make such further changes as might be suggested towards making it a completely Popular Government in consonance with the safety of the State and to keep the balance between the divergent views of different parts of the State. The matter rested there for the time being.

12. Then came the developments of 1947 and the question of accession. The position of my State was very difficult situated as it was in contiguity to India and Pakistan as also to Afghanistan, Tibet and Russia. The situation therefore required to be dealt with with more tact and foresight than in the case of other States. Mahatma Gandhi and the Prime Minister were anxious that I should not make a declaration of Independence and the Prime Minister was anxious to secure the release from prison of Shaikh Abdullah. Having regard to what my Government had done when the Prime Minister visited the State in 1946, Lord Mountbatten chose to visit the State in June 1947 and we had several talks. Lord Mountbatten then urged me and my Prime Minister, Kak, not to make any declaration

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of independence but to find out in one way or another, the will of the people of Kashmir as soon as possible and to announce our intention by 14th August to send representatives accordingly to one Constituent Assembly or the other. Lord Mountbatten further told us that the newly created States Department was prepared to give an assurance that if Kashmir went to Pakistan, it would not be regarded as an unfriendly act by the Government of India. Lord Mountbatten stressed the dangerous situation in which Kashmir would find itself if it lacked the support of one of the two Dominions by the date of the transfer of power. The impression which I gathered from my talks with Lord Mountbatten who explained the situation with plans and maps was that, in his opinion, it was advisable for me to accede to Pakistan. I thought that in the circumstances it was advisable to have Stand-still Agreements with India and Pakistan and get breathing time to decide which accession would be in the interests of the State. Pakistan very quickly and willingly agreed to a Stand-still arrangement, perhaps with mental reservations, as appears from their subsequent conduct. On the other hand, the Government of India did not make up their mind and, if I may be permitted to say so, dealt with the situation in a half-hearted and desultory manner; thus, giving an opportunity to Pakistan to do mischief, as they did. This gave rise to misunderstandings on both sides resulting in dissatisfaction and delay in coming to an understanding. The results have been detrimental to both the State and India. Pakistan became impatient and, having failed to force accession, started with blockading the supplies to the State and ended by invading the State. Lord Mountbatten realizing the uncertain and dangerously unstable position of the State, asked Lord Ismay to approach me and get me to decide on accession without further delay to whichever Dominion I and my people desired. This was at the end of August 1947.

My difficulties were as follows:—

(1) The People of the State were divided in several groups each group having its own ideas about accession;

(2) The Border Feudatory Territories such as, Hunza, Nagar and Chitral and the District of Gilgit (where British influence was Supreme) were definitely for accession to Pakistan and were pressing me to accede to Pakistan without delay and threatening me with dire consequences if I did not act according to their suggestion;

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(3) The Muslim population of the State was also divided into groups with divergent views. Muslim from parts of Jammu such as, Mirpur, Poonch, Muzzafarabad, were for accession to Pakistan because of Pakistan Propaganda inside the State. Muslims of Kashmir and some Muslims of Jammu who were led by Shaikh Abdullah and the leaders of the National Conference did not want the question of accession to be decided at that stage but wanted me to part with power in their favour so that they could decide the question independently of me. They made no secret of their views and obstructed me in deciding the question of accession instead of helping me to accede to India;

(4) Hindus of Jammu and all the people of Ladakh were for affiliation with or accession to India;

(5) A portion of the population of Kashmir was also for accession to Pakistan.

Thus, there was a sharp division of opinion. The partititon aggrevated the situation and unhinged and unbalanced the minds of the people with the result that the People of the State were not in a position to give any considered opinion if I chose to consult them.

13. In September 1947, it was suggested to me that it would be a wise move on my part to appoint Shri Meherchand Mahajan as my Prime Minister as he would be able to handle the affairs of the State in the then critical period firmly and in a statesmanlike manner. Before Shri Meherchand Mahajan took up his appointment he discussed with Sardar Patel about the immediate requirements of the State and Sardar Patel promised him full support and co-operation on behalf of the Government of India. Sardar Patel also wrote to me stating this and adding, that the Government of India fully realized how difficult the situation in the State was and assured me that the Government of India would do their best to help the State in the critical period. I then wrote to Sardar Patel that a little further elucidation of the points of view regarding the essential requirements of the moment would result in a satisfactory solution. Sardar Patel replied on the 2nd October 1947 that he had a further talk with Shri Mahajan and understood that Shri Mahajan was joining my service very shortly. As by that time I had pro-

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claimed a general amnesty, Sardar Patel expressed his pleasure at the step I had taken and stated that this would rally round me the men who might otherwise have been a thorn in my side. He also stated that he was expediting as much as possible the linking up of the State with the Indian Dominion. Shri Mahajan then received Sardar Patel's letter of the 21st October 1947 in which he said that he had further discussion with Shaikh Abdulla, that Shaikh Abdullah seemed to him genuinely anxious to co-operate and sincerely desirous of assisting the State in dealing with the external dangers and the internal troubles with which the State was threatened. He further said that at the same time Shaikh Abdullah, as was natural, felt that unless something was done and done immediately, to strengthen his hands, both in popular eyes and in dealing with the dangers, it would be impossible for him to do anything substantial. He said he felt that the position which Shaikh Abdullah took up was understandable and reasonable, that in the mounting demands for the introduction of a responsible Government in States, such as was witnessed in Travancore and Mysore, it was impossible for me to isolate myself, that the upsurge was bound to affect me sooner or later, that the Government of India on their part had pledged to give me the maximum support and would do so, but without some measure of popular backing, particularly from amongst the community which represented such an overwhelming majority in Kashmir, it would be difficult to make such support go to the farthest limit that was necessary if the disruptive forces which were being raised and organized, were to be crushed. He advised me in the circumstances to make a substantial gesture to win Shaikh Abdulla's support. He said he had no desire to suggest that I should do so in a manner which would be completely revolutionary in character, that such a step might undermine the loyal and willing support which the State had commanded from strong elements of the body politic.

14. Shri Mahajan also received the Prime Minister's letter dated 20th October 1947 in which he referred to the friendliest feelings the Government of India had towards Kashmir and its people and their desire to help to the best of their ability in providing Kashmir with the commodities it needed. He said the Government of India would like to do so for humanitarian reasons as well because of their deep interest in the future of the people of Jammu and

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Kashmir State. That the self-interest of India also demanded that and that Government of India were strongly of the opinion that no coercion should be exercised on Kashmir and its people and that they should be allowed to function in their own way and to make such decision as they thought fit and proper and that in the furtherance of this policy the Government of India would direct their efforts. The Prime Minister in his letter dated 21st October 1947 to Shri Mahajan said that the future of Kashmir was of the most urgent importance to the Government of India and for him, it was both a personal and a public matter, that it would be a tragedy so far as he was concerned, if Kashmir went to Pakistan. The Prime Minister referred to the urgent need of Pakistan to get Kashmir's accssion to Pakistan and that they were threatening every now and then to that end and that everything else that they did was an accessory to the same, that the top-ranking leaders of Pakistan were continually approaching the Kashmir National Conference leaders, that they assured ~~appealed~~ to them for their best behaviour and promised them something approaching independence if only they would agree to Kashmir acceding to Pakistan. They were even prepared to give the right of secession. The Prime Minister then suggested the urgency of taking some step like the formation of a Provincial Government and that Shaikh Abdulla, who was obviously the most popular person in Kashmir, might be asked to form such a Government. The Prime Minister further added that in view of all the circumstances he felt that it would probably be undesirable to make any declaration of Adhesion to the Indian Union at that stage, that this should come later when a popular Interim Government was functioning.

15. After the amnesty proclaimed by me, Shaikh Abdulla wrote to me on the 26th September 1947 in which, after referring to his incarceration for about a year and a half, he said as follows:—

"In spite of what has happened in the past I assure Your Highness that myself and my party have never harboured any sentiment of disloyalty towards Your Highness' person, throne or dynasty. The development of this beautiful country and the betterment of its people is our common aim and interest and I assure Your Highness the fullest and loyal support of myself and my organisation."

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He added:—

> "In order to achieve the common aim set forth above, mutual trust and confidence must be the main step. Without this it would not be possible to face successfully the great difficulties that upset our State on all sides at present.

He concluded:—

> "Before I close this letter, I beg to assure Your Highness once again of my steadfast loyalty and pray that God may grant me opportunity enough to make this country attain under Your Highness' aegis such an era of peace, prosperity and good Government that it may be second to none and be an ideal for others to copy."

16. I wrote to Lord Mountbatten on the 26th October 1947 informing him of the situation in the State. I received his letter dated 27th October 1947 stating as follows:—

> "In the special circumstances mentioned by Your Highness my Government have decided to accept the accession of Kashmir State to the Dominion of India x x x x
> It is my Government's wish that as soon as law and order has been restored in Kashmir and her soil cleared of the invaders the question of the State's accession should be settled by a reference to the people x x x x
> My Government and I note with satisfaction that Your Highness has decided to invite Shaikh Abdulla to form an interim Government to work with your Prime Minister."

The Prime Minister also wrote to me on the 26th October 1927 stating as follows:—

> "Shri V. P. Menon returned from Jammu this morning and informed me of his talks there. He gave me the Instrument of Accession and the Standstill Agreement which you had signed and I saw also your letter to the Governor General of India. Allow me to congratulate you on the wise decisions that you have taken. I earnestly hope that they will lead not only to the effective protection of Kashmir State in the present but also to the freedom and well being of Kashmir and India as a whole."

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I then acceded to India.

17. The Prime Minister in his letter dated 13th November 1947 pointed out to me that the only person who could deliver the goods in Kashmir was Shaikh Abdulla, that he was obviously the leading and popular personality in Kashmir, that the way he had risen to grapple with the crisis had shewn the nature of the man, that the Prime Minister had a high opinion of his integrity and his general balance of mind and that he was likely to be right in regard to major decisions.

18. Shri Gopalaswami, who was then a Minister without a portfolio, wrote to me on the 9th of December 1947 indicating for my consideration his views on the changes which in the critical situation of the State, were immediately called for in the then existing constitutional and administrative set-up in the State.

19. A draft of the Proclamation which I was intended to issue, was sent to me by the Government of India. It was seen by Shaikh Abdulla. Shaikh Abdulla also saw the correspondence which had passed between Sardar Patel and myself. Shri Gopalaswami wrote to me on 1st March 1948 as follows:—

"1st March 1948.

"My dear Maharaja Sahib,

Messrs. V. P. Menon and Mahajan are going to Jammu this afternoon to discuss and finalise with you the draft of the Proclamation which Your Highness has to issue for appointing Abdulla as Prime Minister and others on his advice. The draft has been very carefully considered by myself, Panditji and Sardarji, and we are of the opinion that the whole of it should be accepted by you. Anything less would not satisfy the requirements of the present situation.

2. As a friend of yours, I consider it most important that Your Highness must make a very big gesture in order to rally the maximum percentage of the population of the State behind you with the help of Abdulla. Things are moving very fast and we have yet to fight a great battle at Lake Success. I have already stated during the discussions at Lake Success that Your

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Highness had only been waiting for Shaikh Abdulla to return from America to convert the Emergency Administration into an Interim Council of Ministers with Abdulla as Prime Minister. I am leaving Delhi for Lake Success the day after tomorrow, and it would be a great strength to the cause I have to plead there on behalf of Kashmir if this Proclamation is issued before I leave. I have not the slightest doubt that the issue of this Proclamation at this juncture, is, in the circumstances that confront us at present, in the best interests of yourself and your people.

3. It is further very important that everything that has happened in the past should be forgotten and forgiven and that Your Highness should take Shaikh Abdulla into your fullest confidence. In fact, I was almost going to suggest that you should give up your usual reserve, come out in the open and put yourself at the head of your people, both Muslims and non-Muslims, for the purpose of consolidating and strengthening the large volume of support for preserving the integrity of the State and maintaining its accession to India which, thanks to Sheikh Abdulla and the Indian Army, you have already behind you.

With kind regards,

Yours sincerely,
Sd. N. Gopalaswami."

Shaikh Abdulla in his letter dated 24th March 1948 stated as follows:—

"The situation in the Jammu & Kashmir State is, as you are well aware, a difficult one and requires the most careful handling. The emergency continues and has to be dealt with as such till normal conditions are restored. The burden of a Prime Minister in these circumstances will be a heavy one. He cannot function effectively without the fullest co-operation of his colleagues and the people as well as, of course, Your Highness. I have consulted some of my colleagues, who were available and have come to the conclusion that it is my duty in these circumstances to undertake this burden. I trust that in

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the heavy work ahead I shall have Your Highness' full help and co-operation. I appreciate the spirit in which you have made the offer of the Prime Minister to me and on my part I assure Your Highness that I shall fully reciprocate it."

20. Then came the Proclamation dated 5th March 1948 which was drafted by Shri Gopalaswami and approved by the Government of India and Shaikh Abdulla. It has been referred to in Article 370 of the Constitution of India and the State of Jammu & Kashmir has so far been governed under the constitutional set-up for that Proclamation.

21. It is necessary to set out briefly what happened in the State and between the Government of India and Shaikh Abdulla in relation to the State after the Proclamation of 5th March 1948 and my leaving the State at the end of April 1949. Shaikh Abdulla and the men of his party took all power to themselves, ignored my existence and where they felt necessary, they got the consent of the Government of India to do what they liked in the State disregarding me and my wishes. This gradually led to a deterioration and to the outside world, the State and Shaikh Abdulla became convertible terms. The people of Kashmir were utterly ignored and everything that Shaikh Abdulla desired to do was done in the name of the State with the express or tacit consent of the Government of India. At this juncture on a suggestion from Sardar Patel I and my wife began a tour of the State. This did not suit the books of Shaikh Abdulla. He approached the Government of India with the result that I was asked to stay out of the State for a few months. I accepted the advice of Sardar Patel and agreed to stay out. The Yuvraj was appointed Regent. It need hardly be pointed out that the Yuvraj became a figurehead and had to take orders from Shaikh Abdulla. In this connection it may also be pointed out that although my Proclamation of 5th March 1948 was based on the Mysore Constitution, which stipulated the appointment of a Dewan and reserved subjects yet gradually Shaikh Abdulla succeeded in getting the approval of the Government of India to making changes in the constitution of the State, so as to make it very different from what it was expressly intended to be. The mischief began with Shaikh Abdulla going direct to the Government of India on certain points over my head and the Government of India countenancing him and giving the desired directions and then informing me of what they had done at the instance of Shaikh Abdulla. The correspondence on the subject and the

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events following on each change bear testimony to what Shaikh Abdulla was trying to achieve in breach of the solemn promises and assurances given by him and also by the Government of India on his behalf. After my leaving the State things went from bad to worse. Shaikh Abdulla was not satisfied with what he had achieved and aspired to absolute control of the State. He became openly inimical and hostile to me. He even intefered with my private properties and personal belongings, issued orders to humiliate me and even interfered with the administration of the Dharmartha Trust, a Trust created by my forefathers of which I am the Trustee and which is being administered from day to day by the President of the Dharmartha Council appointed by me. The charities and institutions maintained from the revenues of the Trust are starved. Even the routine expenses of the Trust, such as, for Puja in Temples and Devasthans, cannot be met because it pleases Shaikh Abdulla to prevent the income of the Trust coming to my hands or to the hands of the President of the Dharmartha Council. The Jammu branch of the Imperial Bank of India refused to pay even to me the amounts of the fixed deposits of the Trust and also refused to transfer such deposits to the Bombay Office of the Imperial Bank of India with the result that I had to renew the deposits to avoid loss of interest to the Trust. It would be interesting to know under whose order the Jammu branch of the Bank acted in the manner it did. As will be apparent from my correspondence with the States Ministry my complaints as regards both my personal properties and the Dharmartha Trust have been galore and none of them has been remedied either by Shaikh Abdulla or by the States Ministry. Leaving aside for the moment my grievances as regards what is being done with reference to my personal properties in Jammu & Kashmir how can Shaikh Abdulla's attitude towards the administration of the Dharmartha Trust be reconciled with secularism and impartiality?

22. I may now refer to Mr. V. P. Menon's letter to Shree Mahajan dated 30th January 1948 in which he stated as follows:—

> "As I told you, I have already contradicted the news that the Maharaja fled from Srinagar to Jammu. I propose again to take up this question with the Ministry of Information and have asked Sharma, our Publicity Co-ordination Officer, to get into touch with foreign correspondents and give them the correct picture. I hope, this canard will stop once and for all."

This gives a direct lie to the report set afloat both inside and outside the State by Sheikh Abdulla and his party that I had run away from

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my State in October 1947 leaving the State in chaos and the people at the tender mercies of the invaders. It appears that the Prime Minister was deliberately misinformed as to what I then did and he was also misinformed that my officers had deserted their post and runaway. In the third week of October 1947 Lord Mountbatten was of opinion that it would be dangerous to send any Indian Troops to the help of the State unless the State first offered to accede particularly as such accession would be temporary, being prior to a plebiscite. No final decision was, however, taken on these vital questions by 25th October 1947 but Mr. V. P. Menon was asked to fly to Srinagar to find out the true position there. He met me at Srinagar and I made him realize the urgency of the situation and that unless India helped immediately, all would be lost. It was then that on the strong advice of Mr. V. P. Menon who said it would be fool hardy for me to stay in Srinagar when raiders were as near as Baramulla, Kar- I left Srinagar with my wife and son. I also signed the Letter of Accession which Mr. V. P. Menon took back with him.

None of my officers fled. The families of some of the officers left for Jammu as the Government used to move to Jammu at the end of October and open at Jammu on the first Monday in November.

On the other hand, it was Shaikh Abdulla who fled from Srinagar and did not return till the Indian troops had started coming into Srinagar.

23. Regarding my leaving the State, I may refer to my letter dated 6th May 1949 to Sardar Patel and Sardar Patel's letter to me dated 23rd May 1949. I may also refer to my letter dated 1st June 1949 to Sardar Patel and Sardar Patel's letted dated 9th June 1949 to me. I attach herewith copies of the letters. In June 1949 I issued a Proclamation appointing the Yuvraj as my Regent during my stay outside the State.

24. This was in compliance with the wishes of the Government of India.

25. In November 1950 I received from Mr. Vishnu Sahay his letter dated 30th November 1950 wherein he drew my attention to the resolution passed by the Council of the National Conference asking that a Constituent Assembly be set up for the State and to my Proclamation of 5th March 1948 wherein the setting up of such an Assembly was foreshadowed and stated that it appeared to the States Ministry that the time had come to reduce the uncertainty in Kashmir

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by going ahead with this proposal. He sent a copy of the draft Proclamation to set up the Constituent Assembly, for my comments. I took exception to the proposed manner and method of setting up the Constituent Assembly I summarised my objection to it as follows:—

(1) "That the Proclamation with the object and spirit of which I wholeheartedly agree be issued by me as Ruler who is the properly constituted authority in law to promulgate it and not by my Regent;

(2) The powers and functions of the body intended to be constituted should be express, well defined and accurately worded and should exclude from the purview of their enquiry and consideration matters not expressly entrusted to them;

(3) They should report to the authority that constitutes the Ruler who shall seek the advice of the Parliament of India in the matter."

I refer to the correspondence that took place, the interview which Mr. Menon had with me in Bombay in February 1951 under the instructions of the Prime Minister and the subsequent negotiations which ended with my giving consent to the Yuvraj for setting up the Constituent Assembly. I also refer to the assurance given to me by the Minister for States (Shri N. Gopalaswami Ayyangar) in the course of the negotiations as to the position of myself and my dynasty and other important matters. I am constrained to refer to the relevant portion of his letter which I quote below.

5th April 1951.

x x x x x x

"Developments have, however, since taken place both in the State and at Lake Success which make it imperative that the issue of this proclamation is not delayed any longer. The Government of India are committed to the convening of a constituent assembly, the preparations for which are in active progress in the State. That assembly will be held whether the formal proclamation issues or not. In the view of the Government of India it must be convened, if both their commitments to the people of Kashmir and their stand at Lake Success are to be implemented in spirit and in the letter. From the beginning they have held that this Constituent Assembly should be called under the provisions of the Constitution of India and that this should be done from both a tactical and constitutional point of view, on the authority of proclamation issued by the head of the State. The

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draft of the proclamation has been agreed between the Government of India and the Government of Jammu and Kashmir. No purpose will, therefore, be served by any act of Your Highness which holds up the signing and issue of this proclamation by Shri Yuvraj.

On neither of the two matters about which I can understand your entertaining apprehensions, namely, the continuance of the accession of the Jammu and Kashmir State or of part thereof to India and the connection of the headship of the State with your dynasty, no *final* decision could be taken by the constituent assembly to be convened. They are essentially matters which could be decided only as a matter of agreement between the Government of India and the Parliament on the one side and the Government of Jammu and Kashmir and the State Constituent Assembly or Legislature on the other. Government of India will, no doubt at the proper time take the decision on these matters, which, I need hardly assure you, will be essentially be just from the standpoint both of your dynasty and the people of the State. You have obviously to put your trust in the people of State and the Government of India in respect of this matter. I hope, therefore, you will immediately lift the ban which you have placed on Shri Yuvraj affixing his signature to the agreed proclamation and which naturally has placed him in great embarrassment."

26. Apprehending what was coming and in order not to embarrass the Government of India and the Yuvraj, I have been prepared to abdicate provided that a satisfactory arrangement was come to with me by the States Ministry and provided also that the Yuvraj's position as the head of the State was assured. The negotiations in this behalf which were carried on with Shri Gopalaswami as the States Minister were left in an indecisive state because of Shri Gopalaswami having been succeeded as the States Minister by Dr. K. N. Katju. Having regard to the trend of events I wrote to Dr. Katju on the 29th June 1952. I then received the Prime Minister's letter dated 5th July 1952. I waited for Dr. Katju's reply as foreshadowed in the Prime Minister's letter. I then received Dr. Katju's reply dated 30th July 1952. I replied to Dr. Katju by my letter dated 8th August 1952. I enclose copies of these letters as they have an important bearing on the situation.

27. These letters speak for themselves. Dr. Katju's reply is not a reply at all. The legal position, it appears to me, has not been considered and it further appears that it is being taken for granted by the Prime Minister and Dr. Katju that the relevant Articles, parti-

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cularly Article 370, of the Constitution of India can be altered and/or amended to suit the present attitude of Shaikh Abdullah. It would not be out of place to point out that Article 370 refers specifically to my Proclamation of 5th March 1948. That is the law which governs the State of Jammu and Kashmir until a new Constitution is framed, approved and adopted not only by the Constituent Assembly of the State but also approved by me and then by you and yet, I learn that the Prime Minister has asked the Yuvraj (who is acting only as my Regent and represents me) to agree to be the elected head of the State forthwith, that is to say, even before the Constitution of the State is framed much less approved and adopted thus throwing over not only me but also the Dynasty. I do not know what reply Dr. Katju proposes to make to me but it appears that the Prime Minister is dealing with the matter. (Vice his letter dated 5th July 1952). I have therefore to specifically deal with the charges made in the Prime Minister's letter.

28. The Prime Minister in para 4 of his letter refers to the Constitution of India as having been based on and derived from the People of India and says with regard to the Jammu and Kashmir State that the Government of India felt that the people would prefer accession to India but the matter was delicate and not beyond dispute and, therefore, the Government of India did not press for the accession of Jammu and Kashmir State but suggested that the matter should be considered at a later stage when the people's wishes could be ascertained in some form or the other and the suggestion was that some kind of a Constituent Assembly might be set up in the State to decide the question of accession as well as other questions. I grant all this but how can the Government of India take all these steps over my head on whose authority they entered the State and are continuing there and who was the chief Author of the Proclamation on which is based the future construction of political set up in the country? In para 5 of the Prime Minister says that on the invasion of the State by tribal raiders and other late in October 1947 the crisis arose and at that time I left Srinagar at the dead of night for Jammu and many of my officers followed me and the State was left without leadership or means of defence in so far as official authority was concerned. This is in fact untrue as pointed out above. I left Srinagar for Jammu on the advice of the Government of India conveyed to me through Mr. Menon. The Prime Minister says further that in the basic picture of the crisis of Kashmir I do not come in at all. That statement amounts to *Suppresio veri and suggestio falsi.* I have acted all throughout

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from September 1947 under the advice of the Government of India, Lord Mountbatten, the Prime Minister, Sardar Vallabhbhai Patel and Shri Gopalaswami and, as pointed out hereinabove, Shaikh Abdulla himself made promises and gave assurances which he is now backing out of. Even in the Book called "New Kashmir" published by the Kashmir Information Bureau, New Delhi, in 1950, and which is the political Bible of Shaikh Abdulla, Shaikh Abdulla has based his case for a responsible Government in the State under the aegis of the Maharaja and even gone to the length of setting out what functions the Maharaja was to perform. The Prime Minister in his letter says that the people of Kashmir must decide their own future. I may well ask whether Shaikh Abdulla is a synonymous term with the people of Kashmir. The people of Kashmir have not been consulted. According to Shaikh Abdulla the people of Kashmir have changed their mind to such an extent that they are determined to get rid of the idea of a hereditary ruler of the State. The Constituent Assembly has been packed with Shaikh Abdulla's men and even that Assembly has not yet come to a decision nor has it framed any constitution providing for the functions of the Head of the State either hereditary or elected and what one would like to know is where is the reason for this ~~[illegible]~~ hurry to elect the Head of the State thus doing away with me and my Dynasty before the Constitution is framed and before the fate of the State is determined in the fight that is raging before the U.N.O. between India and Pakistan. Are myself and my Dynasty to be pawns in the game which Shaikh Abdulla is playing with the Government of India on the representation that he is actively helping India in the case before the U.N. Security Council. The Prime Minister says that he has seen no evidence of any sympathy on my part for the people of Kashmir who have gone through fire and suffering during the past four an a half years. May I ask who is responsible for this state of affairs Have the Government of India given any choice of action to me during the last four and a half years Have they at any time pulled up Shaikh Abdulla knowing as they did, on what promises and assurances Shaikh Abdulla became the Prime Minister? May I again point out that even before I left the State under the advice of Sardar Patel, I and my wife had started on a tour of the State as Sardar Patel had told me that I should see more of my people and they should see more of me. Shaikh Abdulla did not like this tour and approached the Government of India with the result that I was called at Delhi and asked to desist from returning to the State and finally to leave it. The Prime Minister says at the end

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of his letter that the only assurances he can give to me is that the first place will be given always to the rights of the people and to the wishes of the people and that if I fall in with those rights and wishes, the Government of India will endeavour to help me to the best of their ability. I am prepared to take up the challenge. Let the people of Jammu and Kashmir freely decide between me and Shaikh Abdulla without interference from the Government of India. Let me point out what has been happening. The world has been given to understand that the march of events, the changed political values have brought about rapid and inevitable changes and we must accept them no matter what the obligation of the Government of India, Government of Jammu and Kashmir, the assurance of both the Governments to me and their duties under certain legal and constitutional arrangements may be. With all due deference to this opinion, I must say that I emphatically challenge the contention that whatever has happened is in accordance with the will of the people and that the sovereignty has effectively and really passed to the people as it should and that they are consciously exercising their will and ask for the changes which are being brought about by an oligarchy backed by Government of India. I cannot conscientiously recognize the changes in the Proclamation of 5th March 1948 which governs the relations of the State with India. But if the Government of India and you, Sir, feel that in the present stage of negotiations with Dr. Graham it would be inconvenient for the Government of India to allow this matter to be raked up, then at least, the Government of India should not succumb entirely to the wishes of Shaikh Abdulla but hold the balance equally between him and me and at least preserve the status quo as regards the headship of the State until the field is clear for the necessary steps to be taken to determine the will of the people of Kashmir.

29. Copies of the following documents are attached for your ready reference:—

1. Note given to Prime Minister of Kashmir by Prime Minister of India on 26th October 1947.

2. Letter dated 26th October 1947 from the Prime Minister of India to the Prime Minister of Kashmir;

3. Letter dated 27th October 1947 from Prime Minister of India to the Prime Minister of Kashmir.

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4. Letter dated 27th October 1947 from the Prime Minister of India to me;

5. Letter dated 26th October 1947 from me to Lord Mountbatten;

6. Letter dated 27th October 1947 from Lord Mountbatten to me;

7. Letter dated 24th December 1947 from Shri N. Gopalaswami to me.

30. Secure in the kuowledge that I was out of the picture and could not reply I was, by a series of false statements and speeches intended to humiliate and malign me, painted black and unpatriotic. The Government of India who had assured me that I would be protected against such onslaughts remained an unconcerned spectator. Not only that, it is most distressing to know and feel that whenever Shaikh Abdulla and his party talked of me in disparaging and spiteful terms, the highest authority in the Government of India immediately endorsed it. If Shaikh Abdulla said I could not return to the State the Prime Minister with all the authority, prestige and might at his back, endorse it. If Shaikh Abdulla said I had lost the confidence of the people the Prime Minister referred to my alleged wrong-headed and mistaken policies, without saying what exactly they were and said the people had suffered on account of these. This no doubt had the effect of suppressing what is said to be the will of the people. Being placed as I was, I was absolutely unable to answer any of these accusations. I feel grievously wronged in that the Government of India whom I looked up to as the ultimate authority I could go to for redress, instead of stopping such malicious and false propaganda, not only went on countenancing it but endorsing it disregarding their solemn assurances.

Having eliminated me in a manner which had neither the sanction of law nor political morality, it was the duty of the Government of India to protect me. But that was not done and the matter did not end there. My properties and privileges etc. were attempted to be interfered with. I protested and asked for redress but never got it.

As I have said above, I was eliminated by a process which was neither fair nor honourable. It was not and it has never been due to the will of the people. It was due entirely to the machinations

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of Shaikh Abdulla and his party. They got themselves appointed on the definite assurances and later, with the connivance of the Government of India, systematically ignored all their legal and moral obligations and ultimately without rhyme or reason but to suit the books of Shaikh Abdulla, successfully got me out of the State. Taking advantage of my absence and helplessness, started a campaign of vilification and harrassment and thus created conditions wherein they could tell an unknowing world that they were doing what the people desired. I have taken the responsibility of making these statements and I earnestly request you, Sir, to ascertain the views of your Government about them and then come to an independent opinion as to whether I have not been seriously wronged and to redress the wrong.

31. I may be permitted to summarise the position:--

(1) The Government of the State of Jammu and Kashmir was more advanced and enlightened than that of any other Indian State in the pre-partition days;

(2) I employed men of undoubted ability and standing to be my Ministers from time to time;

(3) In August 1947 Lord Mountbatten gave me the impression that I should accede to Pakistan, Government of India was undecided about the matter wanted every step by me endorsed by Sheikh Abdulla, the people of Jammu and Kashmir were divided in their opinion and I decided to enter into Standstill Agreements with both India and Pakistan in order to have time for things to settle down;

(4) Pakistan did not act up to the Standstill Agreements, blocked supplies to the State and aided and abetted the raiders;

(5) I released Shaikh Abdulla as advised by Sardar Patel and relied on the assurance given by Shaikh Abdulla backed up by assurances given by the Government of India;

(6) I took Shaikh Abdulla in my Government;

(7) I issued the Proclamation of 5th March 1948;

(8) Shaikh Abdulla with the connivance of the Government of India started tinkering with the Constitution of 5th March 1948;

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(9) Shaikh Abdulla persuaded the Government of India to drive me out of the State;

(10) I left the State and appointed the Yuvraj my Regent;

(11) My rights of personal property and the affairs of the Dharmarth Trust were interfered with by Shaikh Abdulla;

(12) Shaikh Abdulla by maligning me created an impression that the people of Kashmir were against me;

(13) The Constituent Assembly was set up;

(14) The will of the people of Jammu and Kashmir is now judged by the whims and caprices of Shaikh Abdulla;

(15 Shaikh Abdulla having made up his mind to get rid of the Ruler and his Dynasty, persuaded the Government of India to see eye to eye with him and to lay down that this could be done even before the new Constitution was framed much less approved by you on behalf of India;

(16) I get no redress and am told that I am in the wrong, the will of the people is all that counts and I must abide by such will;

(17) The Press carries reports from day to day creating feelings against me and in favour of a Hereditary Ruler. False reports are not contradicted;

(18) The Prime Minister got angry as evidenced by his letter dated 5th July 1952 because I stated facts;

(19) The States Minister avoids giving a proper reply to me and yet the Press says I have been asked and have not replied;

(20) The Yuvraj is being coerced by the Prime Minister and Shaikh Abdulla to accede to their suggestions.

32. Finally I have to say that I had my range of controversy with Shaikh Abdulla and the Prime Minister and I am bitter about the fact that the Government of India have been unable to afford me protection and safeguard my rights in spite of the fact that throughout these four and a half years, I have given full co-operation and the fact that my pre-1947 conduct did not compare unfavourably with that of the other Rulers who at present enjoy Govern-

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ment of India's protection and favour. During the last three years of my enforced absence from the State I have given them no cause for grievance and at the most, I have been charged with delay in permitting the Yuvraj to take action which having regard to the consideration involved and my better experience, was natural and understandable. Even in this matter ultimately I did fall in line with the Government of India. If the result of all this in the final stage has again to be a betrayal by the Government of India of their assurances and promises etc. and is to result not only in my final removal from the State but also of the sacrifice of the Yuvraj whom I had entrusted to the Government of India's protection, I can only say that it would be an ill-return for the faith which I and the Yuvraj placed in the Government and the help and co-operation to the extent of self-effacement that we rendered to it. Only history and posterity will be able to do justice to our respective points of view.

33. In these circumstances, I appeal to you to consider the matter impartially in all its aspects with your sagacity and wisdom and guide me as to what would be in the best interests of the State.

I remain,
Yours faithfully.

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My dear Sirdar Patelji,

With reference to the discussions I had with you on 29th April and 1st May 1949, I have been revolving the matters in my mind and am now in a position to let you have my settled reactions to the proposal in regard to my temporary absence from the State which you put to me.

I should like to say at the outset that I was completely taken aback by this proposal but coming as it did from you, in whom I have since the very beginning placed implicit trust and confidence and whose advice I have throughout followed on the many questions affecting me personally and my State both in the present and in future, I have been able somehow to adjust myself to it. I would not, however, be human if I did not express my sense of keen disappointment and bewilderment at having been called upon to make such a sacrifice of personal prestige, honour and position when all along I have been content to follow, sometimes even against my own judgment and conscience, the advice in regard to the constitutional position in the State which I have been receiving from the Prime Minister of India or yourself, some times even against arrangements which were agreed to only a few months before. Nor would it be fair on my part to conceal from you my own feeling that while Sheikh Abdullah has been allowed to depart from time to time as suited his inclinations from the pledged and written word, to act consistently in breach of the loyalty which he professed to me prior to his release from Jail and the oath of allegiance which he took when he assumed office, and to indulge openly along with his colleagues in a campaign of villifications and foul calumny against me, both inside the State and outside, I should have had to be driven from position to position each of which I thought I held on the advice of the States Ministry.

The contrast naturally fills me with poignant feelings. However once again putting my complete trust in your judgment and benevolent intentions towards me, I might be prepared to fall in with your wishes and to absent myself from the State for a period

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of three or four months in consideration of the fact as emphasised by you namely complications created by the reference to U.N.O. and the plebiscite issue.

There are however certain questions arising out of this proposal on which I would venture to make my position clear to you and on which I would be grateful to have your assurance. I hope you will kindly appreciate the necessity of my seeking these assurances. I have to think of the immediate future in the light of my bitter experiences of the last several months and I owe it to myself, my family and my dynasty to procure a clear declaration in respect of these matters:—

1. I should like to be assured that this step is not a prelude to any idea of abdication. I should like to make it clear now that I cannot entertain the latter idea even for a moment and am fully prepared to take the consequences. I regard such a demand from my Prime Minister and his colleagues as a clear breach of the many understandings on which constitutional arrangements have been based from time to time and a positive act of his disloyalty, treachery and deception.

2. Sheikh Abdulla should be clearly told to stop the campaign of villification against me and to abandon all activities, both on his part and that of his followers, aimed at securing my abdication. I feel that the sacrifice which I am being called upon to make would be in vain if I continued to be the target of their public or private attacks.

3. There should be a clear assurance of protection of myself and my adherents against any victimisation. In this connection I should like especially to draw your attention to the facts that have been reported to me about persons having been detained in Jail for their failure to sign for my abdication.

4. The question that I should remain out of the State for three or four months for reasons of health, will, I am afraid, not be believed by anybody and is likely to give rise to many misgivings and speculation within and outside the State as:—

(i) everybody knows that I am not in such a state of health as would necessitate a long rest outside the State. I have on your advice been recently touring parts of the Jammu Province in the heat of April;

(ii) for everybody in bad health Kashmir is considered to be the best health resort and it will certainly look strange if

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I went outside the State giving out that I am doing so for reasons of health.

(iii) wherever I take my temporary residence I cannot confine myself to the four walls of the house. I am bound to meet people, who, when they meet me, will never believe that I am staying there for reasons of health;

(iv) some other reason which may be plausible and may also at the same time not compromise my dignity and position, should be given out. The best thing would be that the Government of India should find a suitable position for me in Delhi where my services may be utilised in a fitting manner during the above period of 3 or 4 months.

5. It is a matter of peramount necessity that Her Highness should remain with the Yuvaraj in the State during the period of my absence. He is young and impressionable and requires paternal guidance and personal supervision of at least one of his parents. I can see no reason either of poliitcal expediency or justice in insisting on the separation of a mother from her only child whom she is seeing after thirteen months of absence abroad. Considerations of humanity alone should suffice to rule out this altogether.

6. My private estates, houses and other property should be protected against the aggressive acts of Sheikh Abdulla's party. They will attempt to take possession of my Houses, Gardens, Lands and other property. The Indian Dominion should guarantee against that act of aggression. While I am there they dare not do these things but in my absence they will attempt this. I have received information that even during the last few days, after I left Jammu for Delhi, encroachments have been made on my lands at Srinagar.

7. No change should be made *without my consent* in the present arrangements regarding the State Forces or the constitutional position, Prerogatives etc. of the Ruler as now subsisting. Arrangements will continue for me to draw my Staff (both State and Private Deptts) from amongst Officers of my Forces. Guards mounted by my Forces at my Palaces will also continue as at present as per agreement reached vide my letter of 30th August and Mr. Menon's reply of 3rd September thereto. I shall also take whatever staff etc. I require with me outside.

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8. I should be entitled during my stay in India to suitable strength of military guards wherever I stay.

9. Yuvaraj's safety and protection should be the concern of the Indian Dominion. State and Indian Military should guard his person.

10. Outstanding matters with the States Ministry, Civil Lists, Hazur Departments etc. should be decided with me immediately.

In conclusion I wish to say that I shall take the final decision on getting assurances from you on the points above mentioned.

With kindest regards,

Yours very sincerely,

Sd. Harisingh.

Imperial Hotel,
New Delhi.
6th May 1949.

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MINISTER FOR STATES
INDIA.

Camp Doon Court,
Dehra Dun,
23rd May, 1949.

My dear Maharaja Sahib,

Thank you for your letter dated the 6th May 1949.

2. I am very glad to know that Your Highness has reconciled yourself to the proposal which I put forward at my discussion with you. It was with no light heart that I did so. No one can be more cognizant than myself of the attitude which Your Highness has adopted ever since you signed the Instrument of Accession. I am grateful to Your Highness for the spirit of co-operation and understanding which you have always extended to me and also for the kind sentiments which you have expressed. I can assure Your Highness that, before putting forward my proposal, I had, after careful consideration, come to the conclusion that the interests alike of Your Highness, the dynasty and the country demanded the step which you have now agreed to take. I know full well the personal sacrifice involved in it, but, I am sure, along with so many other changes to which Your Highness has accustomed yourself, you will undertake this step also with a sense of duty to your country and in a spirit of calm resignation to the superior dictates of events.

3. Regarding the points which Your Highness has referred to me, I should like to state that the question of your Highness' abdication does not arise. We have made the position quite plain to Shaikh Mahommad Abdulla, and we hope there will be an end to the public controversies centering round this matter as well as to the derogatory references to Your Highness in the press and on the platform in the State. Your Highness will, of course, appreciate that the future constitution of the State would be determined by the duly elected constituent assembly. I am afraid, in the absence of any specific instances of victimisation to which Your Highness refers in paragraph 4, it may not be possible for me to give any assurance, but I can tell Your Highness that, if any such instances are brought to our notice, we shall look into them and try to see that justice is done.

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4. I appreciate what Your Highness says in regards to the reasons for your remaining outside the State, but I feel that it would be best just to say that Your Highness has decided, after the strain of the last so many months and continued ill-health, to stay out of the State for a few months. The actual period need not be stated.

5. We have carefully considered the question of Her Highness staying with the Yuvaraja during your absence, but for a variety of reasons, we feel that it would be best, for the present, for her also to stay away for a while. Later, she can certainly visit the Yuvaraja from time to time, and the Yuvaraja can also visit Your Highness and Her Highness occasionally.

6. We would be grateful if Your Highness would let me have a list of the private estates, houses and other property belonging to Your Highness and referred to in para 6 of your letter. On receipt of the list we shall take up the matter with your Ministry. In the meantime, I hope that, with the understanding that has been reached with Shaikh Mohammad Abdulla on the various controversial issues, he will himself take steps to safeguard Your Highness' property against encroachments. In particular, I hope that the feelings which he entertains for the Yuvaraja will succeed in closing the chapter of the past several months and in introducing a healthy change in the approach of both the Government and the National Conference workers to these and other problems affecting Your Highness and the family personally and the dynasty in general. I hope that no need for a change in the arrangements to which Your Highness has referred in paragraph 7 would arise, but should any such need arise, we would of course consult Your Highness. We would also make necessary arrangements for guarding you during your stay in India, and we take full responsibility for the Yuvaraja's safety and protection.

7. As regards outstanding matters, we have already informed Your Highness separately that your Civil List has been fixed at Rs. 15 lakhs, out of which Rs. 6 lakhs would be paid by the State and Rs. 9 lakhs by the Government of India during the period of the emergency. Out of this sum, Your Highness will have to make allotment to Her Highness and the Yuvaraja. The latter's expenses would, of course, be larger than before on account of his being Regent. I hope Your Highness will agree to make a suitable allowance for him, bearing in mind his needs. I should be glad to know your suggestion in this respect. Similarly, I should welcome Your High-

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ness' proposal regarding Her Highness' allowance. As regards Huzur Departments, Shaikh Sahib has already agreed to our suggestion that an allowance of Rs. 5 lakhs should be made to Your Highness for this purpose. A list of items, which will be controlled by Your Highness, and during your absence, by the Yuvaraja as Regent, has been furnished to Shaikh Sahib, and he has promised to let us have his comments as soon as possible. After his comments are received, we shall finalise the whole matter, but in the meantime, Your Highness can make suitable allocations to major and other heads of the expenditure on State Departments from out of the allotment of Rs. 5 lakhs.

With kindest regards,
Yours sincerely,
Sd. Vallabhbhai Patel.

His Highness Maharaja Sir Harisingh,
Maharaja of Jammu and Kashmir,
Imperial Hotel,
New Delhi.

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My dear Sardar Patelji,

Kindly accept my best thanks for your letter of 18th May 1949 wherein you have cleared some points mentioned by me in my letter dated 6th May 1949. I have also received a letter from Mr. V. P. Menon enclosing copy of a letter which the Ministry for States have addressed to Sheikh Abdulla regarding certain financial issues relating to my State. This last communication from Mr. Menon makes mention of certain matters which need further consideration before they are finalised and there are some others about which we must have further elucidation if misunderstandings and complications are to be avoided in the future.

2. I am therefore writing to you to ask for your further help which you have always ungrudgingly given to me, in clearing the way for a compete understanding between my Government and mysef.

3. I am grateful to you for the appreciation you have expressed for my desire to adjust myself to the changed circumstances and for my doing so in, what you call, "a spirit of resignation to the superior dictates of events." I must however say that this has been possible for me only because of my implicit faith in you and because of a feeling that even when I consider that things don't look very bright at their face value, you as my friend and guide with your undoubted foresight have seen a long way ahead and are quite sure that it is all in my best interest.

4. I am indebted to you for setting at rest all speculations by interested persons about my abdicating and making this position quite clear to Sheikh Abdulla and for telling him that he should stop indulging in such talks and other derogatory language about me. I however feel sure that he will not desist from doing so. In order to undo the mischief that has already been done and prevent rumours which are sure to be spread during my temporary absence from the State, it seems necessary that a statement may be issued by the Ministry for States depreçating all talk of abdication and use of improper and intemperate language about me and the Ruling Family.

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5. I hope I shall have your protection in case any Press campaign in favour of my abdication or derogatory to me is again started with or without inspiration from Sheikh Abdulla's party. Frankly speaking, in the light of what has gone before I cannot be certain that the understanding now reached on this point would mark the end of this campaign; hence my concern over this matter. Should any such instances come to my notice I shall immediately draw your kind attention to it and I hope I shall then have the States Ministry's active help in putting a stop to or counteracting it.

6. As regards victimisation, I know that certain persons have been detained because of their sympathy towards me and my dynasty though for purpose of legal formalities and outward appearances, different reasons may exist on paper. Lest it should compromise their own chances or disturb the present understanding reached. I should not like to revive that issue but would only express the hope that such cases would receive the attention of the States Ministry if they come to their notice.

7. In Mr. V. P. Menon's letter of 18th May to Sheikh Abdulla a copy of which has been sent to me, it is stated that it will be open to the Indian Government to reduce the strength of the Jammu and Kashmir Forces to such extent as the Indian Army Authorities may ocnsider necessary. In this connection I wish to invite attention to my letter of the 30th August 1948 to your address and Mr. Menon's reply thereto dated the 30th September 1948. In this correspondence the Government of India accepted the position that I shall remain the Commander-in-Chief of the Jammu and Kashmir forces and that my position as such shall be fully safeguarded. If, therefore, any change in the strength of Jammu and Kashmir State Forces is ever considered necessary, it should be made after full consultation between General Cariappa and myself and with my formal consent.

8. Regarding the suggestion about Her Highness' stay outside the State for a while it is understood that there is no sort of ban on her entry into the State and if Her Highness acts upon this suggestion and stays out for a while it will not be made the basis of a demand for her longer stay out. I hope you will kindly ensure that the period of her absence from the State is as short as possible.

9. I am surprised, I must confess, to find from the enclosure to Mr. Menon's letter referred to above that the Ministry for States have already advised Sheikh Abdulla in regard to my Civil List and

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have fixed the very inadequate sum of Rs. 15,00,000 for all of us i.e. Her Highness, the Yuvaraj and myself. It is a personal matter and I would not like to dwell on it at any great length but I feel that I would not be fair to my family or to myself if I failed to bring to your notice some very significant points in connection with this matter. You will agree that the matter of my Civil List is not a matter that affects my person alone. It has important bearing on the well-being of my son, my wife and a large number of my subjects who are employed in my Private Service. Besides there is the question of maintaining the privilege and prestige of the family and several other important and practical considerations have to be taken into account if a fair and just decision is to be arrived at about this question.

10. The Civil List which was fixed at 23½ lacs in 1939 is being arbitrarily reduced to 15 lacs. This amount is wholly insufficient to meet the essential expenditure which will be necessitated by me and Her Highness being out of th State and by the Yuvaraj acting as Regent. In all probability three establishments at different places will have to be maintained.

11. In previous years I never insisted upon the Civil List being fixed according to any hard and fast rule of percentage. The Civil List was voluntarily reduced by me when the State Revenue fell, but when the Revenue increasd I never demanded any enhancement to it. I merely claimed as much as was necessary to meet my reasonable needs and that has been my main criterian all along.

12. It is important to bear in mind that in 1930 with a view to augment the State income and to make available additional Revenue for the well-being of the People I surrendered my Private Jagirs of Bhadarwah and Langet which I had inherited from my father (Raja Amarsinhji) and not from the last ruler of the State. The arrangement at that time was that a sum of Rs. 8.5 lacs would be included in the Civil List in lieu of my Private Jagir which comprised some of the richest and most productive areas of the State. The income from these areas enormously increased after their amalgamation but I nver claimed any enhancement on this account. During the last so many years the income from only one of the items of Revenue from my Private Jagir viz. Bhadarwah and Langet Forests alone has been about 9 lacs a year.

13. Large sums have been spent out of my Privy Purse for giving relief to Refugees and other sufferers of the present upheaval.

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14. I may mntion that the Civil List of some Rulers of much smaller States have been more liberally fixed.

15. You have yourself said (vide para 7 of your last letter that Yuvaraj will obviously require a larger allowance as he will be living more independent life and will therefore require a larger establishment etc. I am afraid that this may not be possible unless the suggested Civil List of 15 lacs is suitably increased.

16. The drastic reduction proposed in the Civil List will entail great suffering for some of my old and loyal servants whom I will have to throw out of employment to reduce expenditure.

17. A further fact to be noticed in this connection is that from S.Y. 2001 to 2004 (April 1944 to March 1948) the full amount of the Civil List (at 5% of the total revenue) was not paid. The arrears for that period aggregate to Rs. 38,21,673. During these years I had to incur usual expenditure which came to Rs. 1,51,72,952 against Rs. 1,08,73,051 received from the State as Civil List and Jagir compensation thereby leaving net deficit of about 43 lacs to be met from other sources. Of this amount no less than 17,00,000 is due to Building Contractors who are clamouring for payment. Early steps should be taken for the payment of the arrears to do so that I may be able to clear these liabilities.

18. I should also like to say that I have not received any amount from the State towards my Civil List since Baisakh 2005. Since then I have been meeting expenditure out of my own slender private resources and I hope you will concede that in doing so I must have restricted the expenditure to the essential minimum. The expenditure already brought to account during the period Baisakh 2005 to end Chet 2005 comes to Rs. 16,41064. Her Highness has spent Rs. 68,169 and the Yuvraj has spent Rs. 41,686 on his Staff and Establishment etc. alone. He was under treatment in America for whole of the year in question and his expenses in America have not yet been booked. In light of all these facts the Civil List should be fixed at least 20 lacs till such times as the Revenue of the State increases. The allotment of allowances to Her Highness and the Yuvaraj would depend on the allotment for my Civil List. I shall let you know my views on this after I hear from you about your final decision on the question of the Civil List.

19. With reference to para of your letter I am sending herewith list of my private estates etc. I hope you will now settle as

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quickly as possible with Sheikh Abdulla the question of protection of these Properties from encroachments. I am also sending herewith a list of Privileges and Amenities which I and the Ruling Family have been enjoying and which will have to continue. I thought I would place the list on record so that there is no unnecessary trouble later.

20. I must apologise for this very long letter inflicting on you so many details regarding the points involved but as the decisions that are now being taken are of a very radical character and have very far reaching effects and should be taken after full appreciation of the reasons and facts involved, I thought I must apprise you of all the facts and figures relating to the matters under consideration.

Thanking you again for your kind thoughts and your solicitude for me and my family.

With kind regards,

Yours very sincerely,
Sd. Hari Singh.

Dehradun Camp,
1st June '49.

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MINISTER FOR STATES
INDIA

Camp — Doon Court,
Dehra Dun,
9th June, 1949.

My dear Maharaja Sahib,

I have received Your Highness' letter of the 1st June 1949, in which you have raised certain points arising out of our recent discussions.

2. Your Highness has asked that, in order to prevent further speculation and propaganda, a statement should be issued by the Ministry of States deprecating all talk of abdication and the use of improper and intemperte language against Your Highness and the Ruling Family. As Your Highness knows, I am most anxious, and will do all in my power, to prevent such propaganda; but a statement of the kind suggested by Your Highness would at the present juncture do more harm than good. An assurance has been received from Shaikh Abdulla that he considers the past controversy a closed chapter and does not wish to raise it again. I suggest therefore that we may leave matters alone for the present.

3. As regards the Jammu and Kashmir State Forces the present position is that the Government of India have assumed the entire operational, administrative and organisational control over these forces and also the liability to meet all expenditure in connection with these forces. Your Highness may well leave it to the discretion of the Government of India to decide about the strength of these Forces, and to undertake such consultation with you as they may consider necessary.

4. Regarding the point raised about Her Highness, V. P. Menon has already had a discussion with Her Highness and yourself and it has been agreed now that her Highness will not remain with the Yuvraj during this period.

5. As regards Your Highness' privy purse, it is true that the amount fixed for Your Highness is less than that fixed for the Rulers of similar status; but we have to take into account the grave financial position of the State. At the present time it will not be right for the Government of India to enhance this amount or for Your Highness to ask for it.

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6. Your Highness has mentioned that, for the period from April 1944 to March 1948, a sum of Rs: 38 lakhs is due to Your Highness as arrears of privy purse. Here also I feel doubtful whether in the grave financial position in which the State finds itself at present, it is possible for its finances to pay this sum. I shall, however, consider whether I can do anything to meet Your Highness' wishes in this direction.

7. The Government of India accept Your Highness' list of private property. Menon would, however, go to Srinagar to settle any details arising from it. As regards Your Highness' personal privileges and perquisites, Your Highness would continue to enjoy it as you are the Ruler of Kashmir State, even while you are away from it.

8. I trust I have answered the points raised by Your Highness. We are still in a period of conflict and I am no less aware than Your Highness that it has not been possible to meet Your Highness wishes as fully as I should have liked, but we have to make a realistic approach in tackling the problems before us, and in a situation like the present compromises are inevitable. In your own interests no less than in the interests of the State, these compromises have to be accepted in a spirit of goodwill and co-operation.

Yours sincerely,
Sd. Vallabhbhai Patel.

His Highness Maharaja
Sir Hari Sinhji Bahadur,
Maharaja of Jammu & Kashmir,
Imperial Hotel,
New Delhi.

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Dear Dr. Katju,

With reference to the statements made by the Prime Minister of India at a recent Press Conference and in the House of the People regarding the decisions taken by the Constituent Assembly of the State of Jammu and Kashmir with respect to the headship of the State in the proposed Constitution which vitally affects my position and that of my dynasty. I am constrained to communicate to you my feelings in the matter.

2. The statement regarding the attitude of the Government of India in this matter seems to have been arrived at without regard to the assurances repeatedly given to me that nothing would be done in the matter unless my interests and the interests of my dynasty were effectively secured by appropriate agreement.

3. I must confess that the reported attitude of the Government of India ignores integral aspects of the question which affect me and my dynasty and is not in conformity with the assurances and the understanding between the Government of India and myself when at the insistent advice of the Government of India accompanied by their definite assurances I permitted the Yuvaraj to sign the Proclamation setting up the Constituent Assembly.

4. The Ministry for States is fully aware of the circumstances and the political context in which I agreed to raise the ban put by me on the Yuvaraj from signing the Proclamation setting up the Constituent Assembly. At the time of the setting up of the Constituent Assembly I had certain apprehensions which I communicated to the then Minister for States, Shri Gopalaswami Iyengar. In his letter dated the 5th April 1951 in reply to my letter the Minister for States (Shri Gopalaswami Ayengar) stated: "On neither of the two matters about which I can understand your entertaining apprehensions, namely, the continuance of the accession of the Jammu and Kashmir State or part thereof to India and the connection of the headship of the State with your dynasty no *final* decision could be taken by the

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Constituent Assembly to be convened. They are essential matters which could be decided only as a matter of agreement between the Government of India and Parliament on the one side and the Government of Jammu and Kashmir State, Constituent Assemly or Legislature on the other. The Government of India will, no doubt, at the proper time take the decision on these matters which, I need hardly assure you, would be essentially just from the stand point both from dynasty and the people of the State. You have obviously to put your trust in the people of the State and the Government of India in respect of this matter. I hope, therefore, you will immediately lift the ban which you have placed on Shri Yuvraj affixing his signature to the Proclamation and which naturally has placed him in great embarrassment."

5. It was on this assurance and promise of the Government of India through the Minister for States that I authorised the Yuvraj to affix his signature to the Proclamation setting up the Constituent Assembly.

6. On the basis of such assurance and promise I all the while believed that the question of the connection of the headship of the State with my dynasty will not be dealt with by the Constituent Assembly without an agreement between the Government of India and Parliament on the one side and the Government of Jammu and Kashmir on the other. I believed that such an agreement would make adequate and effective provision for the Privy purse and all other matters effectively securing my interests, rights and privileges and those of dynasty.

7. With this background you will appreciate with what feeling of surprise and resentment I read the following passage in the report of the Press Conference held by the Prime Minister on 21st June 1952 as appearing in the Times of India:—

> "In his first public reference to the Kashmir Constituent Assembly's decisions to abolish hereditary rulership and have an elected head, Mr. Nehru said that the principal of abolishing dynastic rule in Kashmir had been stated repeatedly by the Kashmir Government and the Government of India had accepted it. The question that arose now was what to do in the present circumstances, so that it may be in keeping with the

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Indian Constitution and at the same time give effect to the wishes of the people of Kashmir."

8. The Ministry of States is fully aware of the circumstances under which I acceded to the Dominion of India on 26th October 1947 and the circumstances and the reasons and the purposes for which I agreed to stay out of the State and appoint the Yuvraj as the Regent. Fully appreciating the political situation in the context and having regard to the larger interests of the State as well as of India in the larger context, I agreed to and carried out the suggestions made by the Government of India from time to time, with a view to create a situation which would secure full accession of the State of Jammu and Kashmir to the Indian Union and would facilitate the process of complete integration of the State of Jammu and Kashmir with India. Fully appreciating the internal situation in the State and the necessity of strengthening politically the hands of the Government of India at the U.N.O. and to facilitate a favourable verdict in case plebiscite is taken in the State I readily co-operated with the Government of India in all the necessary steps which were required to be taken to achieve the double object on the assurances given by the Government of India from time to time that in the ultimate decision my interests and the interests of my dynasty would be safeguarded while giving effect to the wishes of the people of the State. Realizing the necessity of establishing responsible Government to meet the criticism at the U.N.O. to prepare a ground for a favourable plebiscite to move with the progressive trends and to establish a Government in accordance with the wishes of the people and to enable the people of Jammu and Kashmir to draw up their own Constitution, I have all the while followed the policy and the suggestions made by the Government of India, who were mostly instrumental in my decision for the establishment of responsible Government in the State and the Constituent Assembly to achieve the desired objects. I did not stick to the legal aspects of the various steps which were taken, I realised that the occasion was not for indulging in legal niceties, but for facing the inevitable pressure of events and making adjustments accordingly.

9. Having regard to the provision contained in Article 370 of the Constitution, I naturally assumed that my headship of the State could not be altered unilaterally by the Constitution Assembly with-

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out amending the said Article, and without making adequate provisions for my Privy purse and other rights and privileges in the Constitution itself. I feel that the significance of the fundamental law of the union of which the State of Jammu and Kashmir is an integral part is not fully appreciated by the Constituent Assembly. I am greatly worried as I feel that the attitude disclosed renders the assurances and promises of the Government and even the provision of the Constitution of very little significance.

10. I wonder if it is realised that implementing the reported decision would mean giving a go-by not only to the promises and assurances given to me but also to a specific provision of the Constitution of India.

11. May I therefore have a definite assurance and a clear statement as to how my rights are to be safeguarded.

118, Koregaon Park,
Poona.
29th June, 1952.

Yours sincerely,
Harisingh.

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CONFIDENTIAL

PRIME MINISTER,
INDIA.

New Delhi,
July 5, 1952.

Dear Maharaja Saheb,

Our Minister of States, Dr. Katju, has shown me your letter of the 29th June 1952 which you sent him.

In this letter you refer to certain statements made by me at a Press Conference and in the House of the People and also to assurances given to you by or on behalf of the Government of India. At the end of the letter you ask for a definite assurance and a clear statement as to how your rights are to be safeguarded.

The Minister of State will, no doubt, reply to your letter. But as this letter of yours has been occasioned chiefly by what I said, I think that I should also write to you and make it clear what our basic position is in this matter.

You are, no doubt, aware that the whole Constitution of India is based on and is derived from the people of India. In the final analysis, it is the people and their wishes that count and all private and personal interests must give way to the larger interests of the people. In so far as the old States are concerned, it was our position, repeatedly stated, that, wherever necessary, the wishes of their people will be consulted and will prevail. This was in regard to the accession to India. In the great majority of these States the wishes of the people were well known and obvious and, therefore no question arose of a separate consultation with them. In regard to the Jammu and Kashmir State, we felt that the people there would prefer accession to India, but the matter was delicate and not beyond dispute. Hence, even before partition, and when large numbers of other States were acceding to India, we did not press for the accession of Jammu and Kashmir State. We suggested that this matter should be considered at a later stage when the people's wishes could be ascertained in some form or other. Our then suggestion was that some kind of a Constituent Assembly might be constituted in Jammu and Kashmir State

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to decide the question of accession as well as other questions. Meanwhile Standstill Agreements were proposed.

On the invasion of the State by tribal raiders and others late in October 1947, a crisis arose there. At the time of that crisis you left Srinagar at the dead of night for Jammu. Many of your officers followed your example and the State was left without leadership or means of defence, in so far as official authority was concerned. You asked us then for help and proposed accession of the State to India so that that help could be more easily given. At the same time the leading popular organization of the State, the National Conference, also sent us an urgent request for help in their hour of danger. It was suggested by them also that the State should accede to India. After long and anxious consideration we accepted these requests and took immediate steps to render assistance to the people of Kashmir against the ruthless invaders who were bringing arson, loot and murder in their train. In accepting accession, however, we repeated our policy that the wishes of the people must prevail in the end. It was, indeed because your request had been powerfully supported by the National Conference, representing the people of Kashmir, that we decided to accept accession. Nevertheless, we stated even at that moment that the people of Jammu and Kashmir State would finally decide the fate of their State.

War developed in the State and India became more and more involved in it. There was danger of this war spreading to other areas. In order to avoid this danger and in pursuance of our general policy to pursue peaceful methods, we referred this matter to the United Nations. Again we laid stress on our policy and our desire that the people of Kashmir should decide about their future, whenever a suitable opportunity for this was given to them.

In the Security Council of the United Nations, it was later proposed that a plebiscite should be held in the State after a number of other steps had been taken and conditions created for the proper holding of such a plebiscite. We accepted that resolution. That has been our position in the Security Council ever since. The plebiscite has been delayed because of Pakistan's insistence on certain conditions which we could not agree to. The matter is still pending before the United Nations where our position has been clearly stated on many occasions.

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You will observe that in this basic picture of the crisis of Kashmir you do not come in at all. The fact that emerges is that the people of Kashmir must decide their own future. We have pledged ourselves to this not only in the Security Council but directly to the people of Jammu & Kashmir State. If, as a result of the plebiscite, it was decided that Kashmir should not accede to India, we would naturally have to accept that decision. And, in that event, it is clear that your personal interests in the State would automatically disappear. If the people of Kashmir decided in favour of India, as we hoped and believed they would, then also it would be for them to say what, if any, your position should be in future. India went to the help of Kashmir on the invitation of the people of Kashmir. We did not go there, as Pakistan falsely asserts, as an invading army to suppress the people. We do not propose to continue there for a day when we are no longer wanted by the people of the State.

It has been our policy all over India to settle the problems of the old States peacefully and with good will and the consent of the parties concerned. We were fortunate to gain that consent in a very large number of cases and so the radical changes that were brought about were done in a spirit of co-operation. But it is always to be remembered that those changes were necessitated by the fierce pressure of changing time and the demands of a revolutionary situation. Those changes would have taken place, whether consent came or did not come, because the will of the people has to prevail and no vested interests could come in its way. The Government of India softened the change and made generous settlement with the Princes. But the main thing was the demand from people and the vital necessity of that change. It was because you did not sense the spirit of the times and the revolutionary changes that were coming over India and the world that you and your then advisors pursued a mistaken policy that led to the grevious development of subsequent days. You will remember how you discarded our advice, repeatedly given in 1946 and 1947. We saw a situation developing there which was full of danger. But your advisors then led you along a wrong path, which undoubtedly, would have led to complete disaster for you and your dynasty if the Government of India had not come to your help. They came to your help, but on that major condition that the people's will must prevail.

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It surprises me that even after all these terrible experiences you still fail to understand the true nature of events in Jammu and Kashmir State, in India and the world. Those Princes in India who had some understanding of these events and the new forces at work, adapted themselves to them and thereby, though they lost power and authority, they secured an honourable place for themselves. Kashmir was rent by war in which India poured her blood and treasure. The people of Kashmir suffered greatly. In this crisis, you still imagined that your personal claim had first importance. The Government of India sought to help you in spite of you, but they had to face on many occasions difficulty and obstruction from you. You refer to your permitting the Yuvraj to sign the Proclamation setting up the Constituent Assembly. Even in doing so you delayed matters considerably and obstructed, to some extent, the natural course of events. You did not appreciate then, as you do not seem to appreciate now, that Constituent Assemblies do not ultimately derive their authority from a Ruler but base their sanctions on the people. Certain forms are observed and it is desirable to observe them where possible. But if those forms are not available, they are done away with and matters take their course. The Constituent Assembly would have met whether you agreed to it or not.

In view of the assurances given by us to the United Nations we made it clear that we would not consider a decision of the Constituent Assembly as binding upon us, if it went against those assurances. Even so, we could not come in the way of the Constituent Assembly in deciding in regard to accession or other matters. Indeed, it was made clear that they had full authority, derived from the people to draw up their internal Constitution. Naturally that Constitution had to be in keeping with the Constitution of India, if the accession to India was to endure.

In your letter to Dr. Katju you refer repeatedly to what you consider your rights and the rights of your dynasty. There is little mention in this letter of the rights of the people. That is the basic difference between your outlook and that of the Government of India. We have tried here and elsewhere to adjust rights, as far as possible but there can be no doubt that no right can prevail if it comes in conflict with the right of the people. For our part we would welcome any decision taken by the people of the Jammu and Kashmir State

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which acknowledges any right of yours but it would be against our policy as well as against the dominating facts of the situation, for us to consider your rights as overriding public rights. Indeed, whatever your theoretical position might be, you have no authority or position left now to influence the future of Kashmir. Because of various considerations, however, we have tried to maintain for you an honourable position, though that is devoid of authority. But if you claim rights which in reality you do not possess and if you come in the way of changes which are inevitable, then even that formal place that you occupy will be endangered. That place would ultimately be made secure only if you had the confidence and the affection of your people. Since you have lost this confidence and affection, the right also goes.

You will have appreciated that the people of Kashmir have gone through fire and suffering during these past four and a half years. I have seen no evidence of any great sympathy on your part for these people, no desire to help them in their distress. Kashmir became an international problem and the people there lived in fear and doubt, facing day-to-day perils, but you only laid stress from time to time on what you called your rights and privileges, on your privy purse and the like. You can imagine that this did not enhance your prestige or lead your people towards you.

You ask for a definite assurance and a clear statement as to how your rights are to be safeguarded. The only assurance I can give you is that the first place will be given always to the rights of the people and to the wishes of the people. If you fall in with those rights and wishes, then we shall endeavour to help you to the best of our ability. If you do not do so, then events will take their natural course.

Yours sincerely,
Sd. Jawaharlal Nehru.

His Highness Maharaja Hari Singh,
118, Koregaon Park,
Poona. (Bombay State).

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MINISTER FOR STATES,
INDIA

Queen Victoria Road,
New Delhi, July 30, 1952.

My dear Maharaja Saheb,

Some weeks ago, I received your letter and I should like to apologise for not acknowledging it formally earlier; but I thought it was not necessary for me to write forthwith because I understood that the Prime Minister had already sent you a fairly long letter with reference to the points to which you referred.

During the last few weeks, I have had the pleasure of discussing the whole situation in Jammu and Kashmir with Shri Yuvrajji, in all its aspects. Three days ago on his way to Bombay, he very kindly came again and, in the course of our conversation with regard to the statement made by the Prime Minister in Parliament the other day, on the recent negotiations, I expressed to him my own view on the matter and I requested him to communicate the same to you. You are fully aware of the intricacies of the present situation. At the present moment the relations between India and Jammu and Kashmir are regulated by Article 370 of the Indian Constitution and we can only move within that ambit.

It is not necessary for me to enlarge upon this topic at any great length. I am sure that you will of your own wisdom give due weight to all the implications of the present position and act in the interests both of your family and the people of Kashmir.

With kind regards,

I am,
your sincerely,
(Sd.) K. M. Katju.

Lieutenant-General His Highness
Maharaja Sir Hari Singh Indar
Mahindar Bahadur.
G.C.S.I., G.C.I.E., G.C.V.O., A.D.C.,
Maharaja of Jammu & Kashmir,
118, Koregaon Park,
Poona.

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SECRET & PERSONAL.

My dear Dr. Katju,

Thanks for your letter of 30th July.

I must confess I have looked in vain in this and Hon. Prime Minister's letter for a reply to the points I raised. The Hon. Prime Minister in his letter dated 5th July had stated that you would reply to my letter. In your letter you say that you did not think it necessary for you to write because the Hon. Prime Minister had already sent to me a fairly long letter with reference to the points I had referred to.

Hon. Prime Minister's letter so far as I can see just gives us the ideals that we may have in view and nobody can seriously contest the theories he has referred to. But I have to point out that even theories must have reference to facts if they are to be worked to th best of advantage of those concerned. If the people's will is to prevail we have to have the people first and know what their will is of course, by suitable democratic methods. We have therefore to apply and work these theories not with a view to satisfying certain political exegencies but to meet the freely expressed genuine will of the people as a whole, and even so the method of fulfilling the will of the people has to be one of evolution if the object is to be achieved. It cannot be denied that in most other spheres the Government of India is working on this principle. The Hon'ble Prime Minister seems mainly to rely on the principle that the present time are against the continuance of herditary Rulership in any form even when it is combined with a democratic constitution wherein the will of the people finds expression is recognised and fully worked. This view is inconsistent with the recognition of hereditary Rajpramukhs in the B Class States and even hereditary Rulers in the C Class ones. It is not I hope the object of the Government of India to make an exception in the case of the Jammu and Kashmir State. Hereditary Rule can stay with advantage in a completely democratic set up, as we know so well is the case in the U.K. with which we are a member of the Commonwealth and the hereditary Ruler whereof we

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have accepted as the head of the comity of Nations in the Commonwealth.

We could certainly think and justify a complete wiping out of the hereditary Rule only when the clearly expressed will of the people expressed in a free democratic manner required it. I would suggest the Government of India seriously consider if this condition does really exist or what they imagine is the will of the people is only the demand of a section of the people led by those whom for political exegencies we have decided to support.

Curiously enough I referred to Article 370 of the Constitution of India and you have also referred to the same. You don't seriously suggest that what is now being done with regard to the Jammu and Kashmir State in relation to the Government of India is in consonance with Article 370. It cannot be gainsaid that the Article 370 will have to be amended to fit in with the scheme agreed to by and between Hon. Prime Minister and Sh. Abdulla.

Yuvaraj saw me some days ago. Just as I am not interfering with him in any manner as he is his own master and is old enough to decide as to his future I am entitled to believe that if he held a view as a result of his conversation with you it does not preclude me from thinking independently. From his conversation with you I do not see how the Government of India can hold the views they do in relation to myself except on grounds of expediency.

If I understand the last sentence of your letter correctly it means that I should have the wisdom to see how best I can fit in with the position the Government of India find themselves in with U.N.O. on one hand and Sh. Abdullah on the other and not be a spoke in the wheel. Realising what was in the offing my Secretary under my direction wrote to Mr. Venkatachar in response to the latter's telephonic message giving the terms on which I was prepared to leave the field open to the Government of India. These terms were not newly set and had been the subject of talk with your predecessor in office and you will find if you enquire from the quarter mentioned that the only point on which the Government of India had any difficulty in meeting my wishes was the quantum of the Privy Purse to be allowed jointly to me and the Yuvaraj.

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I am preparing a full representation and expect to send it within the next few days. In the meantime I thought I might write to tell you of my reaction to your letter.

I have written the letter in the same frank spirit in which the Hon'ble Prime Minister and you have written to me and I trust it will not be taken amiss.

I did not write to the Hon. Prime Minister in reply to his letter as I was waiting for yours.

With kindest regards.

Yours sincerely,
Harisingh.

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SECRET.

NOTE GIVEN TO THE PRIME MINISTER OF KASHMIR BY THE PRIME MINISTER, INDIA ON 26th OCTOBER 1947.

The Defence Committee of the Cabinet of the Government of India considered the situation in Kashmir and the request made by the Government of Jammu and Kashmir State for help against the raiders who had entered their territory and caused great loss. The suggestion that the Kashmir State should accede to the Indian Union was also considered. The Committee came to the following conclusions, which were subsequently confirmed by the Cabinet:—

(1) In view of the request made by the Kashmir Government for help against raiders who have entered their territory, the Government of India have decided to give such help. In furtherance of this decision they are sending troops by air tomorrow morning to Srinagar. They intend reinforcing these troops by air as well as by the land route via Jammu, as the defence of Kashmir has become their responsibility now and they intend to discharge it to the best of their ability.

(2) His Highness the Maharaja, in accordance with his wishes and the wishes of a large number of his people, will agree to Jammu and Kashmir State acceding to the Indian Union. The Government of India will accept this accession provisionally subject to their declared policy that such matters should be finalised in accordance with the will of the people. Any reference to the people can only take place when law and order have been fully established;

(3) H.H. The Maharaja will invite Sheikh Mahommad Abdulla to form an Interim Government after the Mysore pattern.

Sd. J. Nehru.
26-10-47.

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SECRET.

EXTERNAL AFFAIRS DEPARTMENT
INDIA.

17 York Road,
New Delhi,
26th October, 1947.

My dear Mr. Mahajan,

I gave you a hurried note today just before you left. I have not even got a copy of it. I have therefore drafted a slightly fuller note and I am enclosing it. There is no essential difference between this and the previous note.

I think it is important for Sheikh Mohd. Abdullah to go to Srinagar immediately as the situation there requires urgent handling and his presence will be helpful. I am suggesting to him therefore to go straight to Srinagar tomorrow morning. He will come to Jammu whenever the Maharaja so desires.

We have decided to send more troops to Srinagar tomorrow as at first intended. Probably we shall be able to send 400 by air tomorrow I am quite sure that our troops will render a good account of themselves. Apart from other officers we are sending one of our senior and experienced officers, namely Brigadier Hiralal Atal to accompany the troops. He knows Kashmir and his presence ought to be of great help.

Yours sincerely,
Sd. Jawaharlal Nehru.

Meharchand Mahajan Esq.,
Prime Minister of Kashmir,
NEW DELHI.

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PRIME MINISTER
INDIA

17 York Road,
New Delhi,
27th October 1947.

My dear Mr. Mahajan,

Thank you for your letter. I am glad indeed that the Maharaja Saheb has signed the Instrument of Accession and the Standstill Agreement, also that he has invited Sheikh Abdullah to form an Interim Government. I am sure this is a wise deciison which will do good to Kashmir and to India. I hope that this decision will be given effect to in a spirit of the fullest trust and co-operation.

2. I am writing to His Highness separately and as, no doubt, you will see that letter, I shall not repeat it here.

3. We have decided for the present to issue to the press only the letter of the Maharaja to the Governor-General and the Governor-General's reply. These two state the facts clearly and briefly. Tomorrow your statement will be issued. No further information has been given to the press at present. We shall decide about this from day to day.

4. I am sending my secretary, Dwarkanath Kachru, to Srinagar with these letters. He will remain there for some days and return when he can. It is my own wish to visit Srinagar for a day. But just at present it is impossible for me to leave Delhi. As soon as I can manage it, I shall go there.

Yours sincerely,
Sd. Jawaharlal Nehru.

Shri Mehrchand Mahajan,
Prime Minister of Jammu & Kashmir,
Jammu.

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PRIME MINISTER
INDIA.

17, York Road,
New Delhi.
27th October, 1947.

My dear Maharaja Saheb,

Shri V. P. Menon returned from Jammu this evening and informed me of his talks there. He gave me the Instrument of Acession and the Standstill Agreement which you had signed, and I saw also your letter to the Governor General of India. Allow me to congratulate you on the wise decisions that you have taken. I earnestly hope that they will lead not only to the effective protection of the Kashmir State in the present, but also to the freedom and well-being of Kashmir and India as a whole.

2. I am sending you separately the Governor-General's reply to your letter. As you know, we sent Indian Army troops by air to Srinagar today. The decision to send them was made yesterday afternoon. Our resources in aircraft are limited. Nevertheless we strained every nerve and got all the available planes and sent a considerable body of men to Srinagar today. I must express my great satisfaction at the manner in which this difficult piece of organizational work was done at this end. It involved working hard nearly the whole night. Soon after arrival in Srinagar the troops proceeded on the Baramullah Road and came in contact with the enemy raiders and held them at Baramullah. To have been transported from Delhi to Srinagar and to be in action within a few hours has been a remarkable achievement.

3. Tomorrow morning we shall send more troops by air and we propose to continue sending reinforcements by air and road. By road we would like to send them to Jammu, but we are not quite clear about the state of the road and I suggest that every effort might be made to put this road in proper conditions within the next two or three days. This road is going to be the chief life-line for our troops and for supplies. It is essential and urgent, therefore, that the road be in good condition and the river that has to be crossed should be bridged. Naturally there is no time for any permanent arrangements. Something should be done temporarily to make the road and the river passable.

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4. I trust that there are enough motor vehicles in Jammu to take our troops and supplies to Srinagar from Jammu whenever necessary. Motor transport should also be made available to our troops in Srinagar. It is impossible to send it there. We shall try, of course, to send petrol.

5. It is our intention to use some aeroplanes in the valley. For this it is necessary to have some kind of aviation petrol depot in Srinagar. We shall try to send the aviation petrol there.

6. I am sorry we have been unable to send relief to the pockets of Kashmir State troops which have been isolated in Jammu Province. We felt that we must use every aircraft available for transport of troops to Srinagar. Tomorrow also we want to use every plane for troop transport. Day after tomorrow we shall endeavour to send food supplies to these isolated pockets in Jammu Province.

7. The arrival of our troops in Srinagar undoubtedly saved the situation at the very last moment. Probably a day or two's delay would have been fatal. But the task is still very difficult and we have to put all our strength and energy into it. We propose to do so.

8. The way the people of Kashmir, Muslim, Hindu and Sikh, are facing the situation and preparing to defend their country is most heartening. I trust that in this defence we shall give a demonstration to all India and to the world how we can function unitedly and in a non-communal way in Kashmir. In this way this terrible crisis in Kashmir may well lead to a healing of the deep wounds which India has suffered in recent months.

Yours sincerely,
Sd. Jawaharlal Nehru.

His Highness
The Maharaja Saheb of Jammu & Kashmir,
Jammu.

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My dear Lord Mountbatten,

I have to inform Your Excellency that a grave emergency has arisen in my State and request immediate assistance of your Government.

As Your Excellency is aware the State of Jammu & Kashmir has not acceded to either the Dominion of India or to Pakistan. Geographically my State is a contiguous to both the Dominions. It has vital economical and cultural links with both of them. Besides my State has a common boundary with the Soviet Republic and China. In their external relations the Dominion of India and Pakistan cannot ignore this fact.

I wanted to take time to decide to which Dominion I should accede or whether it is not in the best interest of both the Dominions and my State to stand independent—of course with friendly and cordial relations with both.

I accordingly approached the Dominions of India and Pakistan to enter into a stand still agreement with my State. The Pakistan Government accepted this arrangement. The Dominion of India desired further discussion with representatives of my Government. I could not arrange this in view of the developments indicated below. In fact the Pakistan Government under the stand still agreement are operating Post and Telegraph system inside the State.

Though we have got a stand still agreement with the Pakistan Government, that Government permitted steady and increasing strangulation of supplies like food, salt and petrol to my State.

Afridis, Soldiers in plain clothes, and desperadoes, with *modern* weapons, have been allowed to infilter into the State at first in Poonch area, then in Sialkot and finally in a mass in the area adjoining Hazara district on the Ramkote side. The result has been that the limited number of troops at the disposal of the State had to be dispersed and thus had to face the enemy at several points simultaneously that it has become difficult to stop the wanton destruction of life and property and looting. The Mahora Power House which supplies the

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electric current to the whole of Srinagar has ben burnt. The number of women who have been kidnapped and raped makes my heart bleed. The wild forces thus let loose on the State are marching on with the aim of capturing Srinagar, the Summer Capital of my Government as a first step to overrunning the whole State.

The mass infilteration of tribesmen drawn from the distant areas of the N.W.F. Province coming regularly in Motor Trucks using Mansehra-Muzaffarabad road and fully armed with up to date weapons cannot possibly be done without the knowledge of the Provincial Government of the N.W.F. Province and the Government of Pakistan. Inspite of repeated appeals made by my Government no attempt has been made to check these raiders or stop them from coming to my State. In fact both the Pakistan Radio and Press have reported these occurrences. The Pakistan Radio even put out a story that a Provisional Government has been set up in Kashmir. The people of my State both Muslims and non-Muslims generally have taken no part at all.

With the conditions obtaining at present in my State and the great emergency of the situation as it exists I have no option but to ask for help from the Indian Dominion. Naturally they cannot send the help asked for by me without my State acceding to the Dominion of India. I have accordingly decided to do so and I attach the Instrument of Accession for acceptance by your Government. The other alternative is to leave my State and my people to free-booters. On this basis no civilised Government can exist or be maintained. This alternative I will never allow to happen so long as I am the Ruler of the State and I have life to defend my country.

I may also inform Your Excellency's Government that it is my intention to at once set up an Interim Government and ask Shaikh Abdulla to carry the responsibilities in this emergency with my Prime Minister.

If my State has to be saved immediate assistance must be available at Srinagar. Mr. Menon is fully aware of the situation and he will explain to you if further explanation is needed.

In haste and with kindest regards,

Yours sincerely,
Sd. Hari Singh.

The Palace,
Jammu,
26th October 1947.

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Government House,
New Delhi.
27th October 1947.

My dear Maharaja Sahib,

Your Highness's letter dated the 26th October has been delivered to me by Mr. V. P. Menon. In the special circumstances mentioned by Your Highness, my Government have decided to accept the accession of Kashmir State to the Dominion of India. Consistently with their policy that, in the case of any State where the issue of accession has been the subject of dispute, the question of accession should be decided in accordance with the wishes of the people of the State, it is my Government's wish that as soon as law and order have been restored in Kashmir and her soil cleared of the invader, the question of the State's accession should be settled by a reference to the people. Meanwhile, in response to Your Highness's appeal for military aid, action has been taken today to send troops of Indian Army to Kashmir to help your own forces to defend your territory and to protect the lives, property and honour of your people.

My Government and I note with satisfaction that Your Highness has decided to invite Sheikh Abdulla to form an Interim Government to work with your Prime Minister.

With kind regards,

I remain,
Yours very sincerely,
Sd. Mountbatten of Burma.

Lieut-General His Highness
Maharaja Sir Hari Singh Indar Mahindar Bahadur,
GCSI, GCIE, GCVO, ADC,
Maharaja of Jammu and Kashmir.

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No. 3-NG|47
New Delhi,
24th December 1947.

My dear Maharaja Sahib,

I am most greatful to Your Highness for your letter of the 17th December. We have given anxious consideration to all the points mentioned in that letter and during the last two days we have had the advantage of further discussion of several of those points with Sheikh Abdulla.

2. I have set out below our considered conclusions. In our opinion they are in the best interests of the Jammu and Kashmir State, its Ruler and its people. I earnestly hope that you will find yourself able to accept and give effect to all of them.

3. The Government of India do not desire that you should deviate from the Mysore model except in respect of matters which are considered minor and which are necessitated by the different conditions, which ordinarily, and particularly now, prevail in Kashmir For the Interim Government which you are anxious to set up immediately, the model should undoubtedly be the Mysore one but, in adopting that model to the present situation in your State, its peculiar conditions and the provisions of its existing constitution deserve to be taken into account. These have been kept fully in view by us.

4. You have laid stress on the reservation of subjects listed in Schedule II of the Mysore Proclamation dated 24th of September 1947 as being its most important essential. Most of the item in this schedule are reserved matters under the Jammu & Kashmir Constitution Act. Items 1, 2 and 4 are reserved from the cognizance of the Praja Sabha under Section 24 of the Jammu & Kashmir Constitution Act, 1996, though the description is not identical. They can be included in the list of subjects in the administration of which you are not bound to obtain the advice of your ministers. The Powers of the Ruler under item 3 in regard to the High Court are to be found in Section 48 and 49 of that Act. In addition, similar powers are reserved to the Ruler in Section 71 as regards

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the Board of Judicial Advisers. The Ruler's powers to summon and dissolve the Legislature (item 6 of the Mysore model) are provided for in Section 15 of the Act. The residuary and emergency powers (item 8 of the Mysore Schedule) are reserved to the Ruler under Sections 4 and 5 of the Jammu & Kashmir Act. The only matters in the Mysore Schedule which do not find specific mention in the Jammu & Kashmir Act are:—

(a) protection of legitimate interests of minorities; and

(b) superintendence, direction and control of elections.

(a) may be reserved in the Proclamation to issue. It seems unnecessary to reserve (b) also. The matter referred to therein is one which could well be left to the Council of Ministers.

5. The Interim Ministry will, as suggested in your letter function as a Cabinet with a Prime Minister at its Head, and with such number of other Ministers as may be fixed by you in accordance with the provisions of Section 6 of the Constitution Act.

6. There may be a Dewan in addition to the Council of Ministers. It is desirable that he should have the right to attend meetings of the Cabinet, so that he might be closely associated with the work of the Cabinet, and might function as an effective Liaison Officer between the Cabinet and the Ruler, interpreting the one to the other and aiding and advising the Ruler in the transaction of business connected with reserved subjects. Not only does Section 6 of the Constitution Act require that the Prime Minister should preside over the Council of Ministers, but it is on the merits essential that he should do so. To direct that a person other than the Prime Minister should preside over the Cabinet would not make for that perfect understanding and intimate association between the Ruler and his Prime Minister, which are so essential for efficiency of administration.

7. I agree entirely that the person to be selected for the post of Dewan should be a man who enjoys your full confidence. It is, however, at the same time desirable that that man should not be one to whom the Leader of the Government has any violent objection. The two have to get on with cordiality and good understanding if Your Highness' Government of the State is to achieve the maximum beneficial results for the people that it ought to achieve. There can be no question of anybody attempting to sabotage your selection of

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the proper man for the Dewan's post. I am in a position to assure you that Sheikh Abdulla himself is only too anxious to have, as liaison between him and you, a Dewan who enjoys your fullest confidence, so that his relations with you might be of the smoothest possible description. Should your Highness so desire, I shall be glad to be of assistance in selecting a Dewan who will be the best possible choice from all points of view.

8. We and in "we" I include myself, Pandit Jawaharlal Nehru and Sardar Vallabhbhai Patel are convinced that it is not possible for Sheikh Abdulla and Mr. Meher Chand Mahajan to work together in the same Government hereafter and that it is best in the circumstances that Mr. Mahajan should be allowed to terminate his present connection with the State. I have already informed you that I have good reason to think that Mr. Mahajan would probably himself be glad to be relieved from the embarrasment of your Highness asking him to stay on in the State.

9. In ordinary circumstances I should certainly have agreed in your view that six Ministers should be adequate for a State like Kashmir. The State is, however, in great turmoil. The invader has to be expelled, rebellion has to be quelled, law and order have to be established and normal economic life revived. For a considerable time to come, the burden of Government in Kashmir will be much heavier than in ordinary times. I have discussed this question with Sheikh Abdulla. He considers that there is more than enough work for each of 12 or 14 Ministers and he urges that this number need not scare anybody, as the salaries that will be taken by them will be very much smaller than the salaries you have been paying your Ministers hitherto the Pitch of the salaries is not wholly relevant in this connection. It is desirable to avoid a crowd of Ministers. Responsibility will get too scattered and unity of policy and close collaboration in administration might not be fully achieved if the number of Ministers is too large. Taking all circumstances into consideration, I should recommend for the Interim Government, which will function only till the new Constitution is fashioned and comes into force, a strength of 9 Ministers. This would incidentally provide room for adequate representation, in the Ministry, of Minorities and the different areas of the State. On this latter matter, namely, representation of Minorities and province, Sheikh Abdulla is as keen as you yourself are. His immediate object is so to constitute his Government that he will be able to rally to his sup-

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port the maximum proportion of the population, especially in view of the threatened plebiscite.

10. On the question of the army I thought I had made it clear to Your Highness that there was no need to fix proportions for the recruitment of the different communities in the Army. I am glad that you are prepared to take Kashmiris, both Hindus and Muslims, into the army, provided that suitable material offers for recruitment. For the rest, no more is necessary than to apprise all sections of population in the State of the policy of Your Highness and Your Government to provide opportunities of service, whether civil or military, to members of all creeds and communities in the State on their merits. I agree, and I am in a position to assure you that Sheikh Abdulla agrees, that, for sometime to come and until things have completely settled down and normal life has been in full swing for a considerable period, we should hardly think of recruiting any large number of Muslims from the Jammu Province (including the Poonch area) which has contributed the largest number to the rebel ranks in the present disturbances. The populations of these areas have first to be won over and their loyalty to the State proved beyond cavil before recruitment to the army from their ranks can be safely allowed to take place. It is, however, important that, in order to win them over, they should have the expectation from now that, if they become and remain loyal to the State, opportunities for service to the State, whether in a civil or military capacity, will not be denied to them.

11. The Mysore Proclamation dated 24th September 1947 laid upon the Dewan the duty of framing a Constitution Bill and directed that, in doing so, he should obtain the advice and counsel of a Committee elected by the Legislature and of such other experts and expert bodies as might be found suitable and desirable. There was some controversy on this matter in Mysore State and, in the final understanding that was arrived at between the Dewan and the President of the Mysore Congress and embodied in the Mysore Maharaja's proclamation dated 29th day of October, the direction in this respect was that the Interim Ministry should set up a Constituent Assembly composed of elected representatives of the people and entrust to it the task of framing a Constitutional Bill providing for responsible Government under the aegis of the Maharaja. I think that, so far as Kashmir is concerned, it would be sufficient if the Proclamation that will be issued by Your Highness gives the direction that the

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Interim Ministry should submit to you, as soon as possible, proposals for bringing into existence a Constitution-making body composed of elected representatives of the people for the purpose of framing, for your approval and promulgation, a Constitution for the Jammu and Kashmir State. The Constitution of the present Praja Sabha provides for a large fraction of nominated Members and will therefore not be accepted either to the National Conference or even to other political bodies in the State. It would seem, therefore, best to ask the Indian Ministry itself to submit for your consideration proposals as regards the composition of the Constitution-making body and the method of choosing the members.

12. This letter has become longer than I originally intended, I hope, however, I have met all the points raised in your letter.

13. With a view to saving time, the State Ministry is being asked to prepare a draft of the Proclamation and to send it on to you as early as possible for your consideration. If you desire, in the meantime, to give any instructions in connection with such drafting, will you kindly have them communicated to that Ministry direct by telegram or by letter?

14. The actual personnel of the Ministry has to be proposed by Sheikh Abdulla for your acceptance. If, in connection with this matter or for the purpose of further discussion of what I have said in this letter, my services should be required, they are always at your disposal.

With kindest regards,

Yours sincerely,
Sd. N. Gopalaswami.

His Highness the Maharaja of Jammu & Kashmir,
Jammu.

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As desired by the President, I have examined the constitutional aspect of the Prime Minister's letter of the 20th August 1952 and of the drafts of the changes which Shaikh Abdullah has suggested in Article 370 enclosed with the letter from the States Minister dated the 26th August 1952.

2. I am afraid there is, if I may say so, a confusion of thought. The Maharaja of Jammu and Kashmir fills two distinct and separable positions under the Constitution. He is, first, the Ruler of the Jammu and Kashmir State, recognised by the President under clause (22) of Article 366 of the Constitution; and, second, he is, under clause (21) of the said Article, also the Rajpramukh of the State of Jammu and Kashmir by virtue of being recognised by the President as the Maharaja of that State.

3. There are only three ex officio Rajpramukhs, namely the Rajpramukh of the State of Hyderabad, the Rajpramukh of the State of Mysore, and the Rajpramukh of the State of Jammu and Kashmir. The Rajpramukhs of the other Part B States hold that position by virtue of their recognition as such by the President under clause 21(c) of Article 366. The vast majority of Rulers recognised under clause (22) of Article 366 are not Rajpramukhs. They are in fact not Rulers at all because they do not rule and have been shorn not only of their powers and jurisdiction but also of their former territories which have merged in the various States in Part A or Part B. It follows, therefore, that a person may cease to be a Rajpramukh under clause (21) of Article 366 but may continue to be a "Ruler" under clause (22) thereof. It is therefore difficult to understand why it should be necessary that the Maharaja of Jammu and Kashmir

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should abdicate before an elected Head of State could be substituted for the Rajpramukh. There is nothing, so far as I can see, ~~in the Constitution which precludes~~ inconsistent in the Constitution the Maharaja ~~from~~ ceasing to be the Rajpramukh of Jammu and Kashmir and at the same time continuing to be the Ruler of that State in his capacity as the hereditary Maharaja, which is nothing more than an honorary position to which certain perquisites and privileges are attached. Indeed, unless he continues to be recognised, or his son is recognised, as a Ruler under Article 366(22), it would not be possible to bring any privy purse that may be agreed to be paid to him or his son within the special provisions envisaged in Article 291 in respect of the privy purse of Rulers. It should be noted that the allowances payable to the Rajpramukh under Art. 158(3) as modified by item (4) of Art. 238 is quite distinct from the Privy Purse payable to him qua a Ruler.

4. That being the constitutional position as I see it, the insistence of Shaikh Abdullah and the Prime Minister on the abdication of the Maharaja is difficult to appreciate. What is more difficult to appreciate is that even the Maharaja in his memorial (which I have hurriedly perused) does not refer to this distinction between the two positions which he occupies under the Constitution. Perhaps the present misunderstanding between them might, in part at any rate, be attributable to this confusion between the two positions.

5. As for the two drafts enclosed with Dr.Katju's letter of the 26th August 1952, the first deals with the substitution of a new Explanation for the present Explanation in clause (1) of Article 370. Its effect is to replace the reference to the Maharaja of Jammu and Kashmir by a reference to the proposed Sadar-i-Riyasat and to omit the reference to the Maharaja's Proclamation dated the 5th March 1948. This change is proposed to be made under the authority conferred

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on the President by clause (3) of Article 370.

6. Clause (3) of Article 370 is very widely worded and empowers the President, notwithstanding anything in the provisions of Article 370, to declare, by public notification, that that Article shall cease to be operative or shall be operative only with such exceptions and modifications and from such date as he may specify. The proviso to this clause, however, requires that the recommendation of the Constituent Assembly of the State shall be necessary before the President issues such notification. The first question which arises is whether recourse could be had to this clause piecemeal. This clause has evidently been inserted to enable the President ~~to enable the President~~ to give effect to such constitution as may be framed by the Constituent Assembly of the State with the approval of the Government of India. If the Constituent Assembly frames a constitution of which the Government of India does not approve, the President naturally will not be advised to make the declaration contemplated by clause (3) of Art.370. It is no doubt true that under Article 367 the General Clauses Act, 1897, applies,unless the context otherwise requires, for the interpretation of the Constitution as it applies for the interpretation of Statutes, and that one of the provisions of the General Clauses Act provides that, unless the contrary intention appears, when a power is conferred by Statute, it may be exercised from time to time as occasion arises. But if the intention of clause (3) of Article 370 is to give effect to such constitution as may be framed by the Constituent Assembly of the State with the approval of the Government of India, then the point which calls for serious consideration

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is whether resort could be had to that clause for implementing a decision of the Constituent Assembly on merely a part of the constitution relating to the Head of the State. It could be argued with some force that since one part of the constitution has inevitable repercussions on the other parts, the whole constitution must emerge completely before any action could be taken under clause (3) of Article 370. Even if it were permissible in the strictly legal sense to implement the recommendation of the Constituent Assembly in respect of only a part of the constitution of the State, it is doubtful whether it would be prudent to proceed piecemeal, particularly when no serious difficulty is encountered in running the administration of the State as at present constituted.

7. By way of illustrating the unwisdom of such piecemeal implementation of the recommendations of the Jammu and Kashmir Constituent Assembly, I would allude to the possibility of effecting a change in our own Constitution concerning the other Rajpramukhs in India to which the Prime Minister has himself referred in the last paragraph of his letter of 20th August 1952. It is by no means improbable that some at any rate of these Rajpramukhs would themselves prefer to be relieved of their office as such Rajpramukhs and to remain content with their position as Rulers recognised under Art.366(22). Nor should it be inherently impossible to persuade the other Rajpramukhs by tactful approach to relinquish their position as Rajpramukhs with a view to equalising the status of all the States in India. If such an eventuality were to materialise, there will be Governors in all the States in India with the exception of Jammu and Kashmir, for, if the present

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proposal were accepted, that State would have a Sadar-i-Riyasat while the others would have Governors.

8. Incidentally, in the last paragraph of his letter, the Prime Minister speaks of a strong feeling in Parliament on the subject of "Rajpramukhs as well as their privy purses". I may be permitted to point out that Rajpramukhs do not have any privy purse by virtue of their position as Rajpramukhs. As Rajpramukhs they only draw such allowances as are determined by the President under Article 158(3) as modified by item (4) of Article 238. The privy purse to which they are entitled is drawn by them by virtue of their recognition as Rulers and has been guaranteed by the covenants under which they have surrendered all their powers and jurisdiction. These privy purses have been further guaranteed by Article 291 of the Constitution. It is submitted that the covenants were entered into by the Government as representing the people and have been guaranteed by the Constitution framed by the representatives of the people. It would be ~~difficult~~ impossible to justify any departure from such solemn assurances, particularly after the Rulers have fulfilled their part of the bargain by surrendering their powers and jurisdiction. I think therefore that what the Prime Minister has in mind when he refers to the Rajpramukhs and their privy purses is the allowances which are payable to Rajpramukhs by virtue of their position as Rajpramukhs and not the privy purse payable to the "Rulers". These allowances will naturally cease to be payable when the office of Rajpramukh is abolished in respect of all Part B States. ~~As~~ Privy Purses for life, have been guaranteed during the life-time of the covenanting Rulers and are liable to be reduced, in some cases very drastically, in the case of succeeding Rulers.

9. As for the second draft enclosed with Dr. Katju's letter of the 26th August 1952, it purports to deal with certain alterations in the Constitution (Application to Jammu and Kashmir) (Second Amendment) Order, 1952, consequent on the proposed changes in the

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Explanation in Article ~~371~~ 370(1) proposed in the first draft. The changes contemplated are:

i) to preclude the application to Jammu and Kashmir of sub-clause (b) of clause (21) of Art.366 which provides that the person for the time being recognised by the President as the Maharaja of Jammu and Kashmir shall also be the Rajpramukh of that State; and

ii) to preclude the application to Jammu and Kashmir of Article 386 which provides for the continuance during the transitional period of the Council of Ministers appointed by the Rajpramukh immediately before the commencement of the Constitution.

These changes will be necessary if the change contemplated by the first draft is given effect to.

10. It is interesting to note that neither of these drafts contain any reference whatever to the position of the Maharaja as the Ruler of Jammu and Kashmir recognised by the President under Article 366(22), which merely confirms what I have said in the earlier part of this note about the Maharaja continuing to be recognised as the "Ruler" of Jammu and Kashmir notwithstanding the abolition of the office of Rajpramukh in relation to that State. The demand for the abdication of the Maharaja therefore appears to me, with respect, to be somewhat inconsequential.

S. A. Lal

2.9.1952

President.

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My yesterday's note was dictated from bed as I was ill and I had no occasion to consult the debate of the Constituent Assembly. I have now done so and find that when making his motion on Article 306A, which has now become Article 370, the Hon'ble Shri N. Gopalaswami Ayyangar said:-

p.427/Const. Ass.debates, Vol.X

> "The last clause refers to what may happen later on. We have said article 211A (now Article 238) will not apply to the Jammu and Kashmir State. But that cannot be a permanent feature of the Constitution of the State, and hope it will not be. So the provision is made that when the Constituent Assembly of the State has met and taken its decision both on the Constitution for the State and on the range of federal jurisdiction over the State, the President may on the recommendation of that Constituent Assembly issue an order that this article 306A shall either cease to be operative, or shall be operative only subject to the exceptions and modifications as may be specified by him. But before he issues any order of that kind the recommendation of the Constituent Assembly will be a condition precedent. That explains the whole of this article.
>
> "The effect of this article is that the Jammu and Kashmir State which is now a part of India will continue to be a part of India, will be a unit of the future Federal Republic of India and the Union Legislature will get jurisdiction to enact laws on matters specified either in the Instrument of Accession or by later addition with the concurrence of the Government of the State. And steps have to be taken for the purpose of convening a Constituent Assembly in due course which will go into the matters I have already referred to. When it has come to a decision on the different matters it will make a recommendation to the President who will either abrogate article 306A or direct that it shall apply with such modifications and exceptions as the Constituent Assembly may recommend. That, Sir, is briefly a description of the effect of this article, and I hope the House will carry it."

This clearly confirms the impression formed in my former note that clause (3) of Article 370 is intended to be resorted to only after the Constituent Assembly of Jammu and Kashmir has framed its constitution and the President is placed in possession of the full picture so that he could decide whether the whole article is to be abrogated or whether the article should apply with such modifications and exceptions as have been recommended

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by the Constituent Assembly. That being the intention, it follows that the power conferred by Article 370(3) is to be exercised only once and that too after the whole constitution has been framed by the Constituent Assembly.

2. My previous note also needs correction in one respect. It does not, however, affect my conclusion on the point to which it relates. I have assumed that the Maharaja of Jammu and Kashmir has been recognised under Article 366(22). I find, however, that, although he has been recognised as the Maharaja of Jammu and Kashmir, he has not been recognised with reference to that provision. This, however, makes no difference to the point I was endeavouring to make, namely that the Maharaja fills two distinct positions — one, as the Maharaja and, secondly, as the Rajpramukh — and that even if the institution of Rajpramukh were to be replaced by the proposed elected head, his position as the hereditary Maharaja will not in any way be altered merely by reason of such change.

J. N. Sahay

3.9.1952

President.

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GOVERNMENT OF INDIA
MINISTRY OF STATES.

New-Delhi, The 4 Sept.1952.

Forwarded with the compliments of the Deputy Secretary to the Government of India, Ministry of States.

Shri Shavax A Lal,
Secretary to the
President,
Rashtrapati Bhavan,
New Delhi.

Simla

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HIS HIGHNESS' GOVERNMENT, JAMMU AND KASHMIR.

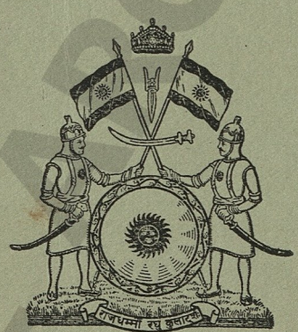
THE J. & K. CONSTITUTION ACT OF 1996.

(XIV OF 1996.)

PROMULGATED BY HIS HIGHNESS THE MAHARAJA BAHADUR OF JAMMU AND KASHMIR ON 22ND BHADON 1996. / 7TH SEPTEMBER 1939.

—:-o-:—

(Amended upto July 1946 = 1st Sawan 2003.)



Published by order of the Government.

JAMMU:

Printed at The Ranbir Government Press—25-9-2003—300.

1946.

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PROCLAMATION.

1. In Our Proclamation, dated 11th February, 1939, We announced Our decision as to the further steps to be taken to enable Our subjects to make orderly progress in the direction of attaining the ideal of active co-operation between the executive and the legislature of the State in ministering to the maximum happiness of Our people.

2. The Commands that We then issued were given effect to in part before and during the last Jammu Session of the Praja Sabha ; and the rest will be given effect to before and during the ensuing Srinagar Session.

3. In accordance with Our directions, the text of the existing Constitution contained in Regulation 1 of 1991 has been thoroughly overhauled and advantage has been taken of this opportunity to bring that text into line with that of similar Constitutions of this type. Under Our further direction a separate part of the new Constitution has been devoted to the Judicature of the State and this part brings together not merely Our existing Commands regarding the constitution and powers of our High Court of Judicature, but provides also for the establishment and functioning of a Board of Judicial Advisers for advising Us in the disposal of civil and criminal appeals preferred to Us against the decisions of the High Court, and on such other matters as We may choose to refer to the Board for advice. We have no doubt that the establishment of this tribunal will meet a genuine need for the satisfaction of which public opinion in the State has been pressing for some time.

4. We direct that the Jammu and Kashmir Constitution Act (No. XIV of 1996) be promulgated with effect from Thursday the 7th September 1939.

5. We repeat the hope that the greatly increased opportunities which the new Constitution confers on the representatives of Our people will be so utilised as to elicit their loyal, intelligent and purposeful co-operation with Us and Our Government in ensuring the contentment, happiness and advancement of Our beloved subjects.

Srinagar
2nd September 1939.

(Sd.) HARISINGH.
MAHARAJA.

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THE JAMMU AND KASHMIR CONSTITUTION ACT.

No. XIV OF 1996.

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THE JAMMU AND KASHMIR CONSTITUTION ACT

No. XIV OF 1996.

Promulgated by His Highness the Maharaja Bahadur of Jammu and KaShmir on 22nd Bahadon 1996 corresponding to 7th September 1939.

PART I.

INTRODUCTORY.

Preamble.

Whereas it is expedient to consolidate and amend the law relating to the government of Jammu and Kashmir, We are hereby pleased to enact as follows :—

Short title.

1. This Act may be cited as the Jammu and Kashmir Constitution Act of 1996.

Extent and commencement.

2. This Act shall extend to the whole of the Jammu and Kashmir State and shall come into force atonce.

Definitions.

3. In this Act unless there is anything repugnant in the subject or context :

(*a*) "Council" means the Council of the Ministers of Jammu and Kashmir referred to in section 7 ;

(*b*) "Gazette" means the Jammu and Kashmir Government Gazette ;

(*c*) "His Highness" means His Highness the Maharaja Bahadur of Jammu and Kashmir ;

(*d*) "Official" and "Non-Official' mean respectively a person who is and a person who is not in the Civil or Military Service of the State, provided that rules under this Act may provide for the holders of such offices or any of them as may be specified in the rules not being treated for purposes of this Act as officials ;

(*e*) "Rules" mean the rules made under this Act ; and

(*f*) "State" means the State of Jammu and Kashmir.

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Government of the State by His Highness.

4. The territories for the time being vested in His Highness are governed by and in the name of His Highness and all rights, authority and jurisdiction which appertain or are incidental to the government of such territories are exercisable by His Highness, except in so far as may be otherwise provided by or under this Act, or as may be otherwise directed by His Highness.

His Highness' Inherent powers.

5. Notwithstanding anything contained in this or any other Act, all powers, legislative, executive and judicial, in relation to the State and its government are hereby declared to be and to have always been inherent in and possessed and retained by His Highness and nothing contained in this or any other Act shall affect or be deemed to have affected the right and prerogative of His Highness to make laws, and issue proclamations, orders and ordinances by virtue of his inherent authority.

PART II.

THE EXECUTIVE.

Vesting of the civil administration in the Council.

6. Subject always to the provisions of sections 4 and 5 and subject also to such rules of business and allocation of portfolios and such other directions as to consultations with or reports to and confirmation by His Highness on special matters as His Highness may give from time to time by general or special orders in that behalf, the superintendence, direction and control of the civil administration and government of the State shall be vested in the Council.

Constitution of the Council.

7. The Council shall consist of the Prime Minister for the time being and such other Ministers of State as His Highness may appoint by Royal Warrant of appointment. The Prime Minister and the other Ministers shall be responsible to His Highness and shall hold office during the pleasure of His Highness. The Prime Minister shall be the President of the Council.

Oath of office of the Ministers.

8. Every person appointed to be a member of the Council shall before entering on the duties of his office make and subscribe before His Highness or any other officer authorised by His Highness in this behalf an oath of allegiance in the form set out in Schedule I.

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9. The Prime Minister may with the previous sanction of His Highness make rules for the more convenient transaction of the business of the Council.

Rules for the conduct of business of the Council.

10. (1) His Highness may appoint a person qualified to to be appointed a Judge of the High Court to be Advocate General for the State subject to such rules as may be made by the Council in this behalf.

Advocate General.

(2) It shall be the duty of the Advocate General to give advice on such legal matters and to perform such other duties of a legal character as may from time to time be referred or assigned to him by the Council.

(3) The Advocate-General shall be appointed for such period and on such salary or other remuneration and on such terms and conditions of service as His Highness may fix.

11. Orders and other instruments made and executed in the name of His Highness or of the Council shall be authenticated in such manner as may be specified in rules to be made by His Highness and the validity of an order or instrument which is so authenticated shall not be called in question on the ground that it is not an order or instrument made or executed by His Highness or the Council as the case may be.

Authentication of orders.

12. The Council may make rules not inconsistent with this Act for the following matters :—

Power to make rules.

(a) the term of office of the nominated members of the Praja Sabha and the manner of filling casual vacancies among them ;

(b) the conditions under which and the manner in which persons may be nominatied as members of the Praja Sabha ;

(c) the qualifications of electors, the constitution of constituencies and their territorial extent, the method of election of the members of the Praja Sabha and any matters incidental or ancillary thereto ;

(d) the qualifications for being or being chosen as members of the Praja Sabha ;

(e) the final decision of doubts and disputes as to the validity of an election.

(f) the prevention of corrupt practices at elections;

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(g) the manner in which rules should be carried into effect;
(h) regulating the course of business and the preservation of order in the Praja Sabha;
(i) prohibiting or regulating the asking of questions on and the discussion of any subject specified in the rules;
(j) fixing the dates and the procedure for the presentation and discussion of the annual financial statement;
(k) fixing the halting and travelling allowances of members of the Praja Sabha for attending meetings of the Praja Sabha or of committees thereof;
(l) the duties of Praja Sabha Under-Secretaries;
(m) the duties of the Advocate General; and
(n) generally for carrying out the provisions of this Act.

PART III.

THE LEGISLATURE.

Legislature.

13. Subject to the provisions of this Act, the Legislature of the State shall consist of His Highness and a chamber to be known as the Praja Sabha.

Constitution of the Praja Sabha.

14. (1) The Praja Sabha shall consist of the President and seventy five other members.

(2) [1][The members of the Council other than those who at the time of their appointment as such are already members of the Praja Sabha shall be *ex*-officio members of the Praja Sabha.]

(3) Of the remaining members, forty shall be elected and the rest nominated by His Highness.

(4) Thirty three of the elected members shall represent the communities and the general constituencies shown in Schedule II and seven shall represent the special constituencies shown in Schedule III.

(5) Of the nominated members referred to in sub-section (3)

(*a*) fourteen shall represent the areas and communities shown in schedule IV, and

(*b*) not more than eight shall be officials.

(6) Rules may be made under clause (c) of section 12 altering the constituencies and their territorial extent as shown in Schedule II and III or the

1. Section 14 (2) Substituted *vide* Act XVI of 2001.

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areas as shown in Schedule IV but such rules shall not have effect unless sanctioned by His Highness.

(7) His Highness may for the purpose of any Bill introduced or proposed to be introduced in the Praja Sabha nominate not more than two persons having special knowledge or experience of the subject matter of the Bill, and these persons shall, in relation to the Bill, have, for the period for which they are nominated, all the rights of members of the Praja Sabha, and shall be in addition to the numbers above referred to.

Duration, session and dissolution of the Praja Sabha.

15. (1) Every Praja Sabha shall continue for three years from its first meeting.

Provided that His Highness may

(*a*) at any time dissolve the Praja Sabha before the expiry of its term ; or

(*b*) extend the term of the Praja Sabha if in special circumstances he so thinks fit.

(2) His Highness shall appoint a date not more than six months after the date of expiry of the term of the Praja Sabha or of its dissolution for its next session.

(3) (*a*) There shall be every year at least one session of the Praja Sabha at Jammu and another at Srinagar.

(*b*) Subject to the provisions of this section, His Highness may from time to time

(i) summon the Praja Sabha at such time and place as he thinks fit; or

(ii) prorogue the Praja Sabha; or

(iii) dissolve the Praja Sabha.

Communications by His Highness to Praja Sabha.

16. Communications by His Highness to the Praja Sabha may be made

(*a*) in person ; or

(*b*) by message sent through the Prime minister or any other Minister ; or

(c) by message sent through the President or any other person presiding under the provisions of sections 20.

Communications by the Praja Sabha to His Highness.

17. Communications by the Praja Sabha to His Highness shall be made by formal address submitted through the President after motion made and carried in the Praja Sabha.

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18. The Advocate-General shall have the right to speak in the Praja Sabha and to take part in its proceedings and in the proceedings of any of its communities but shall not, merely by virtue of this section, have a right to vote.

Right of Advocate General to speak and take part in the proceedings of the Praja Sabha.

19. The President of the Praja Sabha shall be appointed by His Highness for such term as he may fix and he may remove the President from office and fill casual vacancies in that office.

President.

20. (1) The Praja Sabha shall choose one of its member to be the Deputy President thereof and so often as the office of the Deputy President becomes vacant the Praja Sabha shall choose another member to be Deputy President.

Deputy President.

(2) The Deputy President shall perform such duties of the President as may be assigned to him by the President with the approval of the Council and shall, during the absence of the President from any sitting of the Praja Sabha, act as President.

(3) During the temporary absence of the President and the Deputy President from a meeting of the Praja Sabha such person shall act as President as His Highness may by general or special order in that behalf direct,

21. A member holding the office of Deputy President shall vacate his office if he ceases to be a member of the Praja Sabha, may, at any time, resign his office by writing under his hand addressed to the Prime Minister and may be removed from his office by a resolution of the Praja Sabha passed by a majority of the members then on the roll of the Praja Sabha.

Vacation of and removal from office of the Deputy President.

22. His Highness may appoint from among the non-official members of the Praja Sabha as many Under-Secretaries and for such period not exceeding the life of the Praja Sabha as he may think fit. An Under-Secretary Shall be attached to one or more Ministers and will be assigned such duties in relation to the business coming before the Praja Sabha as may be prescribed by rules in this behalf.

Praja Sabha Under-Secretaries.

23. Subject to the provisions of this Act, the Praja Sabha may make laws for the whole State or any part thereof, and for the subjects of His Highness wherever they may be.

Legislative powers of the Praja Sabha.

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24. It shall not be lawful for the Praja Sabha to consider or deal with any matter or enact any law relating to or affecting:—

Reserved matters.

(*a*) His Highness or any member of the Royal Family or the management of the Royal household ;

(*b*) relations, treaties, conventions or agreements between State and His Majesty the King Emperor of India or the Government of India or with Foreign Pewers or the Government of any State in India now subsisting or in force or hereafter to be established or made ;

(*c*) matters of frontier policy including those relating to Ladakh and Gilgit ;

(*d*) such matters relating to the Jagirs of Poonch and Chenani as His Highness may specify ;

(*e*) rights specifically granted to *Illaqadars* or *Jagirdars* by their *sanads* ;

(*f*) the organization, discipline and control of the State Forces ;

(*g*) the department declared by His Highness from time to time as *Hazur* departments ;

(*h*) the Dharmarth Trust ;

(*i*) the provisions of this Act and the rules made thereunder and their repeal or modifications ; and

(*j*) such other matters as may be specified by His Highness from time to time.

25. (1) All questions at any sitting of the Praja Sabha shall be determined by a majority of votes of the members presant and voting, other than the president or person acting as such,

Voting in the Praja Sabha, powers of the Praja Sabha to act notwithstanding vacancies and quorum.

Provided that, in the case of an equality of votes the President or person acting as such shall exercise a casting vote.

(2) the praja sabha shall have power to act notwithstanding any vacancy in the membership thereof and any proceeding in the praja sabha shall be valid notwithstanding that it is discovered subsequently that some person who was not entitled so to do sat or voted or otherwise took part in the proceeding.

(3) If at any time during a meeting of the Praja Sabha less than one fifth of the total number of members are present, it shall be the duty

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of the President or person acting as such either to adjourn the Praja Sabha or to suspend the meeting until at least one fifth of the members are present.

PROVISIONS AS TO MEMBERS OF THE PRAJA SABHA.

26. Every member of the Praja Sabha, other than an *ex*-officio member, shall before taking his seat, make and subscribe at a meeting of the Praja Sabha before the President or such person as may be authorised by His Highness in this behalf, an oath or affirmation in the form set out in Schedule I.

Oath of members.

27. (1) If a member of the Praja Sabha.

Vacation of seats.

(a) becomes subject to any of the disqualifications mentioned in sub-section (1) of the next succeeding section, or

(b) by writing under his hand addressed to the Prime Minister resigns his seat,

his seat shall thereupon become vacant.

(2) If for two consecutive sessions of the Praja Sabha a member is without the permission of the President absent from all meetings thereof, the President may declare his seat vacant.

28. (1) A person shall be disqualified for being chosen as or for being a member of the Praja Sabha,

Disqualifications for membership.

[1][(a) if he is an official ;

Provided that this shall not apply to the [2][members of the Council] or to the officials nominated under section 14, or to the President or to the Deputy President or to the under-secretaries appointed under section 22.]

(b) if he is under 25 years of age ;

(c) if he is of unsound mind and stands so declared by a competent court ;

(d) if he is an undischarged insolvent or being a discharged insolvent has not obtained from a competent court a certificate that his insolvency was caused by misfortune without any misconduct on his part ;

(e) if he is a person against whom a conviction by a

1. Substituted *vide* Act XXVI of 1996.
2. Substituted *vide* Act XVI of 2001.

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criminal court for an offence punishable with a sentence of imprisonment for a term of six months or more is subsisting or an order binding him to be of good behaviour has been passed or an order of internment or externment passed by a Magistrate or the Council or His Highness is in force, unless a period of five years or such less period as His Highness may allow in any particular case has elapsed since his release or the expiry of the period specified in the order;

(f) if he has been convicted or has in proceedings for questioning the validity or regularity of an election, been found guilty of any offence or corrupt or illegal practice relating to elections, which has been declared by any law to be an offence or has been declared by any rule or order of the Council to be a practice entailing disqualification for membership of the Praja Sabha, unless a period of three years has expired from the date of such conviction or finding;

(g) if, having been elected a member of the Praja Sabha, he has failed to lodge a return of election expenses within the time and in the manner required by the rules under this Act, unless a period of three years has expired from the date by which the return ought to have been lodged or His Highness has removed the disqualification.

(2) A person shall not be capable of being chosen a member of the Praja Sabha while he is serving a sentence of imprisonment for a criminal offence, or is under detention for failur to furnish security for keeping the peace or for good behaviour.

Privileges.

29. Subject to the provisions of this Act and to the rules and standing orders regulating the procedure of the Praja Sabha there shall be freedom of speech in the Praja Sabha and no member of Praja Sabha shall be liable to any proceeding in any court in respect of anything said or any vote given by him in the Praja Sabha or any committee thereof, and no person shall be so liable in respect of the publication by or under the authority of the Praja Sabha of any report, paper, votes or proceedings.

Allowances and honoraria.

30. The President, the Deputy President and the Under Secretaries of the Praja Sabha shall receive such honoraria as may be determind by His Highness. The members of the Praja Sabha shall be

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entitled to receive such halting and travelling allowances as may be fixed by rules in this behalf.

LEGISLATIVE PROCEDURE.

Return of Bills, Assent and Acts.

31. (1) Where a Bill has been passed by the Praja Sabha, the Prime Minister may, instead of presenting it for the assent of His Highness, return it to the Praja Sabha for re-consideration in whole or in part together with any amendments which he may recommend.

(2) Where a Bill has been passed by the Praja Sabha and has not been returned to it by the Prime Minister for re-consideration, it shall be submitted for the assent of His Highness, who may declare either that he assents thereto, or with-holds his assent therefrom.

(3) A Bill which is assented to under the last preceding sub-section shall be published in the Gazette in English and shall then become an Act and have the force of law.

(4) In all the Regulations in force in the State on the date on which this Act comes into force and in the rules, orders, proclamations and notifications issued under such Regulations, the word 'Act' shall, unless the context otherwise requires, be substituted for the word 'Regulation'.

Questions and Resolutions.

32. Subject to such restrictions and conditions as are imposed by this Act or may be imposed by rules or standing orders, any member may

(a) ask questions ; and

(b) move resolutions :

Provided that no question shall be asked and no resolution shall be moved which affects the religious rights, usages, endowments or personal law of any community and is not asked or moved by a member of that community.

PROCEDURE GENERALLY.

Language.

33. The business of the Praja Sabha shall be transacted in Urdu, but any member may address the Praja Sabha in English :

Provided that the text of all Bills and amendments thereto moved in, and of all Acts passed by, the Praja Sabha, which shall be treated as authoritative, shall be in English.

Provision in case of failure by the Praja Sabha to pass legislation.

34. Where the Praja Sabha refuses leave to introduce, or fails to pass in a form recommended by the Council, any Bill, His Highness may declare that the proposed legislation is

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essential for the good Government, safety or tranquillity of the State and such Bill shall, on such declaration, become an Act as if it had been passed by the Praja Sabha and assented to by His Highness.

Restrictions on discussion in the Praja Sabha.

35. If the Prime Minister at any time certifies that the discussion of a Bill introduced or proposed to be introduced in the Praja Sabha or of any specified clause of a Bill or of any amendment moved or proposed to be moved to a Bill or of any resolution or of an amendment thereto would affect the safety or tranquillity of the State or any part thereof, he may direct that no proceedings, or no further proceedings, shall be taken in relation to the Bill, clause or amendment, or resolution or its amendment, and effect shall be given to the direction.

Procedure for introducing bills affecting religious rights etc.

36 It shall not be lawful, without the previous sanction of His Highness, to introduce, consider or pass any Bill affecting the religious rights, usages, endowments or personal law of any community, and no such Bill shall be deemed to be, passed by the Praja Sabha unless two thirds of the members of the Praja Sabha from the community affected are present at the meeting of the Praja Sabha and vote in its favour.

Bar to discuss the conduct of a member of His Highness' Board of Judicial Advisers or a Judge of the High Court.

37. No discussion shall be allowed in the Praja Sabha with regard to the conduct of any member of His Highness' Board of Judicial Advisers or of any judge of the High Court in the discharge of his duties.

ORDINANCES.

Ordinances.

38. Notwithstanding anything contained in this Act, the Council may, in case of emergency or where immediate legislation is required in any matter affecting the peace and good Government of the State, submit to His Highness an Ordinance and such Ordinance on being assented to by His Highness shall have the force of law for a period not exceeding six months from the date of its promulgation.

Bar to repeal or alter ordinances.

39. It shall not be lawful for the Praja Sabha to repeal or alter any ordinance passed under section 38.

STANDING ORDERS.

Standing Orders.

40. Standing orders may be made and altered by the Praja Sabha providing for the conduct of business and the procedure to be

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followed in the Parja Sabha. Any Standing Order which is repugnant to the provisions of this Act or to any rules made thereunder shall, to the extent of that repugnancy but not otherwise, be void.

Procedure in Financial Matters.

Annual Financial Statement.

41. The Council shall in respect of every financial year cause to be laid before the Praja Sabha a statement of the estimated receipts and expenditure of the State for the year:

Provided that the estimated receipts and expenditure relating to the Jagirs of Poonch and Chenani shall be shown separately in the statement.

Classification of expenditure.

42. The estimates of expenditure embodied in the annual financial statement shall show separately:—

(a) the sums required to meet expenditure described by this Act as expenditure charged upon the revenues of the State, and

(b) the sums required to meet other expenditure proposed to be met from the revenues of the State.

Expenditure charged on the Revenues of the State.

43. The following expenditure shall be the expenditure charged on the revenues of the State:

(a) Expenditure on matters reserved from the cognizance of the Praja Sabha under section 24.

(b) Contributions payable to other Governments.

(c) Expenditure obligatory under any law.

(d) Interest on loans and sinking fund charges.

(e) Expenditure which may be classed by His Highness or the Council as political.

(f) Pensions and gratuities granted by His Highness or with his sanction or under the rules sanctioned by His Highness or the Council.

(g) Contributions, grants and scholarships sanctioned by His Highness.

(h) Salaries of the Judges of the High Court and the members of His Highness' Board of Judicial Advisers.

(i) Salaries of such other officers as His Highness may specify from time to time.

(j) Such other expenditure as His Highness may specify from time to time.

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44. Any question whether any proposed expenditure falls within a class of expenditure charged on the revenues of the State shall be decided by the Prime Minister and such decision shall be final.

Decision of the Prime Minister regarding Classification of expenditure, final.

45. (1) So much of the estimates of expenditure as relates to the expenditure charged on the revenues of the State shall not be submitted to the vote of the Praja Sabha.

Procedure in the Praja Sabha with respect to estimates.

(2) So much of the said estimates as relates to the other expenditure shall be submitted to the Praja Sabha in the form of demands for grants. The Praja Sabha shall have power to assent or to refuse to assent to any demand or to assent to a demand subject to a reduction of the amount specified therein :

Provided that :—

(a) the Council shall have power, in relation to any such demand, to act as if it had been assented to, notwithstanding the withhoding of such assent or the reduction of the amount therein specified, if the Council considers that the expenditure provided for by the demand is necessary for the carrying on of any department or for the discharge of the Council's responsibility for its administration; and

(b) His Highness may in cases of emergency authorise such expenditure as may in his opinion be necessary for the safety or tranquillity of the State or any part thereof or for the carrying on of any department.

(3) No demand for a grant shall be made except on the recommendation of the Council.

46. If in respect of any financial year further expenditure from the revenues of the State becomes necessary over and above the expenditure authorised for that year, the Council shall have the power to authorise that expenditure. A statement of the expenditure so authorised shall be presented to the Praja Sabha along with the financial statement for the following year.

Supplementary expenditure.

47. (1) A Bill or amendment making provision,—

Special Provisions as to financial Bills.

(a) for imposing, increasing or decreasing any tax, or

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(b) for regulating the borrowing of money or the giving of any guarantee by the Council or for amending the law with respect to any financial obligation undertaken by the Council, or

(c) for declaring any expenditure to be expenditure charged on the revenues of the State, shall not be introduced or moved except with the previous sanction of the Prime Minister.

(2) A Bill or amendment shall not be deemed to make provision for any of the purposes aforesaid by reason only that it provides for the imposition of fines or other pecuniary penalties, or for the demand or payment of fees for licenses or fees for services rendered.

(3) A Bill which, if enacted and brought into operation, would involve expenditure from the revenues of the State shall not be passed by the Praja Sabha unless the Council has recommended to the Praja Sabha the consideration of the Bill.

PART IV.

THE JUDICATURE.

THE HIGH COURT.

Constitution and title of the High Court.

48. (a) The high court referred to in this Act is the High Court established in the state by Order No. 1 of 1985 and styled as the High Court of Judicature, Jammu and Kashmir State.

(b) The High Court shall consist of a Chief Justice and [1][one or more Judges] as His Highness may from time to time think fit to appoint.

Tenure of office of Judges.

[2]["**49**. Every Judge of the High Court including the Chief Justice shall be appointed by His Highness and shall hold office until he attains the age of 55 years:

Provided that if a Chief Justice is taken from a High Court in British India he shall hold office until he attains the age of 65 years;

Provided further that—

(a) a Judge may by resignation under his hand addressed to His Highness resign his office;

(b) a Judge may be removed from his office by order

1. Substituted *vide* Act XII of 2002.
2. Substituted *vide* Act, X of 2000.

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of His Highness on the ground of misbehaviour, or of infirmity of mind or body."]

Precedence of Judges.

50. (1) The Chief Justice shall have rank and precedence before the other Judges.

(2) All the other Judges shall have rank and precedence according to the seniority of their appointments.

Qualification of Judges.

51. A person shall not be qualified for appointment as a Judge of the High Court unless he—

(a) is a barrister of England or Ireland or a member of the Faculty of Advocates in Scotland of not less than ten years standing ; or

(b) has, for at least three years held a judicial office in the State not inferior to that of a District Judge ; or

(c) has, for at least five years held a judicial office in the State or in British India, not inferior to that of a subordinate Judge, or a Judge of a Small Causes Court ; or

(d) is an Advocate of the High Court or of any High Court in British India, and is a barrister of England or Ireland or a member of the faculty of Advocates in Scotland or a law graduate of any recognised University in India who has been practising as an Advocate of the High Court or of any High Court in British India for a period of at least ten years.

Salaries of Judges.

52. [1][The Chief Justice and every other Judge of the High Court shall get such salary or other emoluments, pension, leave and leave allowance as may be prescribed by His Highness in this behalf.]

Oath of office.

53. Every person appointed to be a Judge of the High Court shall, before he enters upon his office make and subscribe before His Highness or some person appointed by him an oath according to the form set out in that behalf in Schedule 1 of this Act.

Seal.

54. The High Court of Judicature shall have and use as occasian may require a seal bearing a device and impression of the Jammu and Kashmir Court of Arms with an exergue or label surrounding the same, with the following inscription, "The seal of the High Court of Judicature, Jammu and Kashmir." The said seal shall be delivered to and kept in the custody of the

1. Substituted *vide* Act X of 2000.

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Chief Justice or of an officer of the Court from time to time nominated by the Chief Justice.

Writs etc.

55 All writs, summonses, precepts, rules, orders and other mandatory processes to be used by the High Court shall run and be in the name and style of His Highness and shall be sealed with the seal of the High Court.

Jurisdiction.

56. (1) The High Court is a Court of record.

(2) The High Court shall have jurisdiction to hear and determine any original civil suit or other proceeding of which the value is not less than rupees ten thousand and every such suit or proceeding shall be instituted in the High Court.

(3) The High Court shall have jurisdiction to entertain and dispose of such appeals, revisions and other cases-civil, criminal or revenue-as it may be empowered to do under any enactment in force in the State.

Place of sitting.

57. The usual places of sittings of the High Court shall be Jammu and Srinagar, and His Highness may by order direct for what period the High Court shall sit at each such place.

Special Commissions and Circuit.

58. Whenever it appears to the Chief Justice convenient that the jurisdiction and powers vested in the High Court by this Act or by any other enactment for the time being in force should be exercised in any place within the jurisdiction of any court subject to the superintendence of the High Court, other than the usual places of sitting of the High Court, or at several such places by way of circuit, one or more judges of the High Court shall with the previous sanction of His Highness hold court at such place or places.

Procedure in original cases.

59. Except as provided by any enactment for the time being in force, all original proceedings and suits shall be heard and decided by a single Judge of the High court.

Procedure in appeals

60. (1) Except as otherwise provided by any enactment for the time being in force and subject to any rules made in this behalf, the jurisdiction of the High Court of Judicature may be exercised by a single Judge of the Court or by a bench of two or more Judges of the Court.

(2) Except as otherwise provided by any enactment for the time being in force, and appeal from any origi-

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nal decree or from any order against which an appeal is permitted by any law for the time being in force passed or made by a single Judge of the High Court shall lie to a Bench consisting of two other Judges of the High Court.

(3) Unless such an appeal is prohibited by any enactment for the time being in force, an appeal from an appellate decree made by a single Judge of the High Court shall lie to a Bench consisting of two other Judges of the High Court, where the Judge who passed the decrec declares that the case is a fit one for appeal.

Jurisdiction by Judges of the High Court.

61. The Chief Justice shall, subject to the provisions of this Act, determine which Judge in each case will sit alone and which Judges of the Court will constitute a bench.

Rule of decision in cases when Judges differ.

62. (1) When there is a difference of opinion among the Judges composing any bench of the High Court, the decision shall be in accordance with the opinion of the majority of the Judges.

(2) If there is no such majority, then—

(a) if the bench is a full bench, the decision shall be in accordance with the decision of the senior Judge, and

(b) in other cases, the bench before which the difference has arisen shall either refer the question or the whole case for decision to a full bench.

Power to refer question to a full bench or a bench-

63. (1) Any single Judge, and any bench of two Judges of the High Court, not being a full bench may, in any case, refer for the decision of a full bench any question of law, or custom having the force of law, or of the construction of any document, or of the admissibility of any evidence, arising before such single Judge or bench and shall dispose of the case in accordance with the decision of the full bench.

(2) Any Judge of the High Court may, if he thinks fit, refer any appeal or application coming before him for hearing as a single Judge to a bench of two Judges for decision.

Superintendence and control of subordinate courts.

64. (1) Subject to such rules and regulations as His Highness may make, the High Court shall have superintendence and control over all courts for the time being subject to its appellate or revisional jurisdiction, and all such courts shall be subordinate to the High Court.

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(2) The Chief Justice, or a Judge of the High Court authorised by him in this behalf, shall from time to time visit and inspect the proceedings of the courts subordinate to the High Court and shall give such directions in matters not provided for by law as may be necessary to secure the due administration of justice.

Registrar and Deputy Registrar

65. (1) The High Court may, subject to the sanction of the Council and on such terms as to salary allowances, promotion, leave, suspension and dismissal, as may be sanctioned by the Council, appoint a Registrar and a Deputy Registrar.

(2) The High Court may delegate to the Registrar or the Deputy Registrar or both such judicial, *quasi*-judicial or administrative powers as it may deem fit.

Requisitions by His Highness.

66. The High Court shall comply with such requisitions, as may, from time to time, be made under the commands of His Highness for records, returns and statements in such form or manner as His Highness may require.

Powers to make rules.

67. (1) The High Court may, consistently with the laws for the time being in force, make rules :—

(*a*) to regulate the practice of the Court ;

(*b*) to regulate the practice of the courts subordinate thereto ;

(*c*) to provide for the forms to be used in the High Court and the courts subordinate thereto for such proceedings, books entries, statistics, and accounts as it thinks fit;

(*d*) to provide for the inspection of courts subordinate thereto and the supervision of the work thereof;

(*e*) to regulate all such matters as it may think fit with a view to promote the efficiency of the judicial and ministerial officers of the High Court and of the courts subordinate thereto, and the maintaining of proper discipline among those officers; and

(*f*) prescribing the qualifications for and admission of persons to be Advocates, Vakils and attorneys-at-law of the High Court and providing for the removal or suspension from practice, on reasonable cause, of the said Advocates, Vakils and attorneys-at-law.

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(2) Such rules shall be made with the approval of a majority of the Judges of the Court and the sanction of [1][His Highness.]

Admission of Advocates.

68. The High Court shall have the power to approve, admit & enrol such and so many Advocates, Vakils, and attorneys-at-law, as it may deem fit.

Contempt.

69. The High Court shall have the power to punish with fine not exceeding rupees one thousand or with simple imprisonment for a period not exceeding six months or with both any person who is guilty of contempt in relation to itself or to any court subordinate to it;

Provided that the High Court shall not take cognizance of a contempt alleged to have been committed in respect of a court subordinate to it when such contempt is an offence punishable under the Ranbir Penal Code.

Saving jurisdiction of a Judge High Court.

70. Notwithstanding anything provided in any enactment to the contrary, no Judge of the High Court sitting in a full bench thereof shall, by reason of his having decided or otherwise dealt with any case be barred from hearing and deciding the case.

His Highness' Board of Judicial Advisers.

His Highness' Board of Judicial Advisers.

71. (1) His Highness may appoint a Board of Judicial Advisers to advise him for the disposal of such civil and criminal appeals as may under the law for the time being inforce, lie to His Highnes from the decisions of the High Court, and on such other matters as His Highness may choose to refer to such Board for advice.

(2) Such Board shall be composed of as many members as His Highness may from time to time determine and such members shall be appointed by His Highness for such period and on such terms as to salary and other conditions of service as His Highness may consider proper

(3) Every person appointed to be a member of the Board shall, before he enters upon his office make and subscribe before His Highness or some person appointed by him an oath according to the form set out in that behalf in Schedule I of this Act.

(4) His Highness may appoint any person as an *ex*-officio member of the Board of Judicial Advisers to discharge the functions of the Board during the period such Board is not in session provided that such *ex*-officio member shall not sit on the

1. Substituted *vide* Act X of 2000.

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bench of the Board for hearing any appeal or other matter as is referred to such Board for advice.

(5) His Highness may make rules regulating the procedure regarding the filing of appeals to His Highness, the place or places and the period of sittings of the Board of Judicial Advisers and the hearing of such appeals and other matters as are referred to the Board for advice.

(6) The Board may, from time to time with the sanction of His Highness, add to, alter or amend the rules of procedure in such manner as they think fit.

ROYAL PREROGATIVE.

72. Nothing herein cotained and nothing contained in any other enactment for the time being in force, shall be deemed to affect in any way or derogate from the inherent power and prerogative of His Highness or to affect in any way his prerogative of mercy and pardon, or his power of remitting, commuting or reducing sentences conditionally or otherwise.

Royal Prerogative.

PART. V.

MISCELLANEOUS.

73. The revenues of the Jammu and Kashmir State shall be received for and in the name of His Highness.

Revenues of the Jammu and Kashmir State.

Explanation. The expression" revenues of the Jammu and Kashmir State" means all revenues and public moneys raised or received by the State and includes

(*a*) all fines and penalties incurred by the sentence or order of any court of justice in the State, and all forefeitures, for crimes of any movable or immovable property in the State, and

(*b*) all movable and immovable property in the State escheating or lapsing for want of an heir or successor and all property in the State devolving as *bona vacantia*, for want of a rightful owner.

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74. (1) The executive authority of the Council shall extend to the grant, sale, disposition or mortgage of any public property, to the purchase or acquisition of property, to the making of contracts and to borrowing on the security of the revenues of the State for the purposes of the government of the State.

Power to acquire property, borrow moneys, make contracts etc.

(2) All such contracts and all assurances of property made by the Council shall be executed by such persons and in such manner as the Council may direct or authorise.

(3) Any such person making any such contract or assurance on behalf of the Council shall not be personally liable in respect thereof.

75 If any dispute arises as to the interpretation or carrying out of any of the provisions of this Act or the rules made thereunder, the decision of the Council subject to the provisions of section 5, shall be final.

Disputes as to interpretation

PART VI.

REPEAL AND SAVINGS

76. (1) The Regulations specified in Schedule V are hereby repealed to the extent shown in the third column of the said Schedule.

Repeal and saving of Laws and rules.

(2) Notwithstanding the repeal of Regulation I of 1991 but subject to the other provisions of this Act, all the law in force in the State immediately before the commencement of this Act shall continue in force until altered or repealed or amended by competent authority.

(3) All notifications published, proclamations issued, powers conferred, jurisdiction vested, forms prescribed, local limits defined, and orders, rules and appointments made under any Regulation, Order, Law or Rule, hitherto in force, which are in force immediately before the coming into operation of this Act and which are not inconsistent with any of the provisions of this Act, shall be deemed to have been respectively published, issued, conferred, vested, prescribed, defined and made under this Act and shall remain in force until repealed or modified either expressly or by implication by competent authority.

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TRANSITIONAL PROVISIONS

77. Notwithstanding the repeal of the Electoral Regulation XIV of 1990, Regulation I of 1991, and Regulation XIII of 1995, but subject to the porvisions of this Act,

Continuance of existing Praja Sabha.

(*a*) the elected members and the nominated members, other than *ex*-officio members of the Praja Sabha which is in existence at the commencement of this Act shall be deemed to have been elected or nominated under the provisions of this Act, and

(*b*) the Praja Sabha aforesaid shall continue for the balance of the period of three years from the date of its first meeting.

78. In respect of any unforeseen difficulties which may arise in relation to the transition from the provisions of the Electoral Regulation XIV of 1990, Regulation I of 1991 and Regulation XIII of 1995 to the provisions of this Act and for which provision has not been made in this Act, the Council may make such temporary provision for removing such difficulties as it may consider necessary.

Power of Council to remove difficulties.

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Schedule I

(See section 8, 26 and 53)

FORMS OF OATH.

Form A. OATH FOR MINISTERS.

I,...A.B .....having been appointed Minister, do solemnly swear that I will be faithful and be truly loyal to His Highness Raj Rajeshwar Maharaj adhiraj Shri Maharaja Harisingh Ji Bahadur, Indar Mahindar Sipar-i-Saltanat-i-Inglishia, G. C. S. I., G. C. I. E. K. C. V.O. LL. D. of Jammu and Kashmir, his heirs and successors and that I will faithfully discharge the duty upon which I am about to enter.

I further do solemnly swear that I will not directly or indirectly communicate or reveal to any person or persons any matter which shall be brought under my consideration, or shall become known to me as a Minister, except as may be required for the due discharge of my duties as such Minister or as may be specially permitted by His Highness.

Form B.

OATH FOR MEMBERS OF HIS HIGHNESS' BOARD OF JUDICIAL ADVISERS AND FOR JUDGES OF THE HIGH COURT.

I,...A.B...having been appointed a member of His Highness' Board of Judicial Advisers.

Chief Justice(or a Judge)of the High Court of Judicature Jammu & Kashmir State,

do solemnly swear that I will be faithful and be truly loyal to His Highness Raj Rajeshwar Maharaj adhiraj Shri Maharaja Harisingh Ji Bahadur, Indar Mahinder Sipar-i-Saltanat-i Inglishia, G, C. S. I, G. C. I. E. K. C. V. O. LL. D. of Jammu and Kashmir, his heirs and successors and that I will faithfully perform the duties of my office to the best of my ability, knowledge and judgment and will administer justice according to the law and usages of the realm without fear or favour, affection or ill will.

Form C.

OATH FOR MEMBERS OF THE PRAJA SABHA.

I,...A.B .....having been elected / nominated a Member of this Praja Sabha do solemnly swear that I will be faithful and bear true allegiance to His Highness Raj Rajeshwar Maharaj adhiraj Shri Maharaja Harisingh Jj Bahadur, Indar Mahindar Sipar-i-Saltanat-i-Inglishia G. C. S. I., G. C. I. E., K. C. V. O., LL. D, of Jammu and Kashmir, his heirs and successors and that I will faithfully discharge the duty upon which I am about to enter.

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Schedule II.

(See Section 14).

GENERAL CONSTITUENCIES.

Serial No.	Name of Constituency.	Extent of Constituency.	Number of members.
	(A) Muslim.		
1	Jammu City Muslim ...	The City of Jammu ...	1
2	Jammu Rural Muslim ..	The Wazarat of Jammu excluding Jammu City	1
3	Udhampur Muslim ..	The Wazarat of Udhampur ..	1
4	Reasi Muslim ..	Do. Reasi ..	1
5	Kathua Muslim ..	Do. Kathua ..	1
6	Mirpur-Kotli ..	The Tehsils of Mirpur and Kotli ..	1
7	Bhimber ..	The Tehsil of Bhimber ..	1
8	Haveli-Mendhar ..	The Tehsils of Haveli and Mendhar, Jagir Poonch.	1
9	Bagh Sudhnuti ..	The Tehsils of Bagh and Sudhnuti, Jagir Poonch.	1
10	Amira Kadal ..	Ward No. 1, Srinagar City [1][and Badamibagh Cantonement Area.]	1
11	Rainawari-Maharajganj	Ward Nos. 5, 6, and 8, Srinagar City [2][including Hari Parbat Fort Area and the Mohallas within that area.]	1
12	Fateh Kadal-Tankipura	Ward Nos, 2 and 3 Srinagar City ..	1
13	Shah Hamdan ..	Ward No. 4, Srinagar City ..	1
14	Tashwan ..	Do. 7 Do. ..	1
15	Awantipura ..	The Tehsils of Srinagar excluding Srinagar City, and Pulwama.	1
16	Anantnag ..	The Tehsil of Anantnag ...	1
17	Kulgam ..	The Tehsil of Kulgam ..	1

1. Added *vide* Act XII of 2003.
2. Added *vide ibid.*

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GENERAL CONSTITUENCIES– *(continued)*.

Serial No.	Name of Constituency.	Extent of Constituency.	Number of members.
18	Handwara ..	Uttarmachipura Tehsil ..	1
19	Badgam ..	Sri Pratapsinghpura Tehsil ..	1
20	Baramulla ..	The Tehsil of Baramulla ..	1
21	Muzaffarabad ..	The Wazarat of Muzaffarabad ..	1
	(B) Hindu.		
22	Jammu City North ..	Wards Nos. 1, 2, and 3, Jammu City ..	1
23	Do. South ...	Wards Nos. 4, 5, 6, and 7, Jammu City	1
24	Jammu Rural Hindu ..	The Wazarat of Jammu, excluding Jammu City.	1
25	Udhampur Hindu ..	The Wazarat of Udhampur ..	1
26	Reasi Hindu ..	Do. Reasi ..	1
27	Kathua Hindu ..	Do. Kathua ..	1
28	Mirpur Hindu ..	Do. Mirpur ..	1
29	Srinagar South ..	Wards Nos. 1, 2, and 3, Srinagar City [1][and Badamibagh Cantonement Area.]	1
30	Srinagar North ..	Wards Nos, 4, 5, 6, 7, and 8 Srinagar City [2][including Hari Parbat Fort Area and the Mohallas within that Area.]	1
31	Kashmir Hindu ..	The Wazarats of Kashmir North, Kashmir South (excluding Srinagar City) [3]and Muzaffarabad.	1
	(C) Sikh.		
32	Mirpur-Poonch Sikh ..	The Wazarat of Mirpur and Jagir of Poonch.	1
33	West Kashmir Sikh ..	The Wazarat of Muzaffarabad and Tehsils Uttarmachipura and Baramulla.	1

1. Added *vide* Act XII of 2003.
2. Added *vide ibid.*
3. Bracket inserted *vide ibid.*

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(Schedule III).

See Section 14.

SPECIAL CONSTITUENCIES.

Serial No.	Constituency.	Number of members.
	(A) Tazimi Sardars.	
1	Jammu Province including Chenani and Poonch Jagirs	.. 1
2	Kashmir Province including Frontier Districts	.. 1
	(B) Jagirdars, Muafidars and Mukkararidars holding a Jagir, Muafi or Mukkarari from the State of not less than Rs. 500 per annum.	
3	Jammu Province including Chenani and Poonch Jagirs	.. 1
4	Kashmir Province including Frontier Districts	.. 1
	(C) Landholders owning land assessed to land revenue of not less than Rs. 250 per annum.	
5	Jammu Province including Chenani and Poonch Jagirs	.. 1
6	Kashmir Province including Frontier Districts	.. 1
	(D) Pensioners receiving Rs. 100 or more as pension per month.	
7	Jammu and Kashmir State	.. 1

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Schedule IV.

(See Section 14.)

AREAS FOR WHICH MEMBERS SHALL BE NOMINATED.

Serial. No.	Areas.	Community.	Number of members.
1	Ladakh Wazarat ..	Buddhist	2
2	Skardu Tehsil ..	Muslim	1
3	Kargil Tehsil ..	,, ...	1
4	Gilgit Wazarat ..	,, ...	1
5	North Kashmir Wazarat	,, ...	1
6	South Kashmir Wazarat	,, ...	1
7	Muzaffarabad Wazarat	,, ...	1
8	Jammu Wazarat ..	Hindu	1
9	Udhampnr Wazarat ..	,, ...	1
10	Srinagar City ..	,, other than Kashmiri Pandit ..	1
11	Poonch Jagir ..	,, ...	1
12	Chenani Jagir ..	,, ...	1
13	Wazarats Jammu Udhampur, Reasi, Kathua, Kashmir South and Sri Pratap Singh Pura.	Sikh	1

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Schedule V.

(See Section 76)

REPEALED REGULATIONS AND ORDERS.

Serial No.	Name and No. of the Regulation repealed.	Extent of repeal.
1	Sri Pratap Jammu and Kashmir Laws Consolidation Regulation IV of 1977.	Section 12.
2	Order No. 1 of 1985 ...	The whole.
3	The Electoral Regulation No. XIV of 1990.	Do.
4	The Jammu and Kashmir Regulation No. 1 of 1991.	Do.
5	The Jammu and Kashmir Regulation No. XIII of 1995.	Do.

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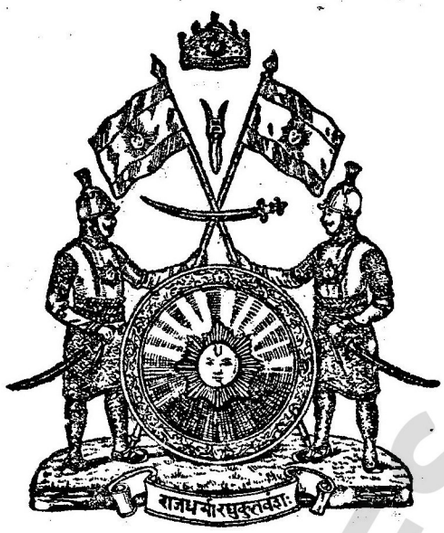
EXTRAORDINARY REGISTERED E. P. No. 87.



The

Jammu & Kashmir Government Gazette.

Vol. 64] SRINAGAR, SATURDAY THE 2ND MAGHAR 2008 = 17TH NOVEMBER 1951 [No. 31 (a)

Separate paging is given to this part in order that it may be filed as a separate compilation.

Jammu and Kashmir Government.

AN ACT FURTHER TO AMEND THE JAMMU AND KASHMIR CONSTITUTION ACT, 1996.

Act No. XVII of 2008.

WHEREAS it is expedient further to amend the Jammu and Kashmir Constitution Act, 1996, with a view to bring it in accord with the spirit of Proclamations dated 5th March 1948, 20th June 1949 and 20th April 1951 and the changes brought about in the actual governance of the State, in the manner hereinafter appearing;

Now, therefore, in exercise of the powers reserved under section 5 of the Jammu and Kashmir Constitution Act, 1996, read with the Proclamation issued by His Highness and published in the Extraordinary issue of the Government Gazette, dated 7th Har 2006, Yuvaraj Shree Karansinghji Bahadur is pleased to enact as follows:—

Short title and Commencement.—1. (1) This Act may be called the Jammu and Kashmir Constitution (Amendment) Act, 2008.

(2) It shall come into force at once.

Amendment of section 4, Act XIV of 1996.—2. In section 4 of the Jammu and Kashmir Constitution Act, 1996 (hereinafter referred to as the "said Act") for the words "except in so far as may be otherwise provided by or under this Act, or as may be otherwise directed by His Highness," the words "on the advice of the Council except in so far as may be otherwise provided by or under this Act, and except in regard to those matters enumerated in List I

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in the Seventh Schedule to the Constitution of India with respect to which the Parliament of India has power to make laws for the State" shall be substituted.

Omission of section 5, Act XIV of 1996.—3. Section 5 of the said Act shall be omitted.

Amendment of section 6, Act XIV of 1996.—4. In section 6 of the said Act, for the words and figures "Subject always to the provisions of sections 4 and 5 and subject also to such rules of business and allocation of portfolios and such other directions as to consultations with or reports to and confirmation by His Highness on special matters as His Highness may give from time to time by general or special orders in that behalf", the words "Subject to the provisions of this Act" shall be substituted.

Substitution of section 7, Act XIV of 1996.—5. For section 7 of the said Act, the following section shall be substituted, namely:—

"*Constitution of the Council.*—7. The Council shall consist of the Prime Minister appointed by His Highness and such other Ministers of the State as His Highness may appoint on the advice of the Prime Minister. The Prime Minister and other Ministers shall be collectively responsible to the Legislative Assembly of the State. The Prime Minister shall be the President of the Council."

Amendment of section 9, Act XIV of 1996.—6. In section 9 of the said Act, for the words "The Prime Minister may with the previous sanction of His Highness" the words "The Council may" shall be substituted.

Insertion of new sections 9-A and 9-B in Act XIV of 1996.—7. After section 9 of the said Act, the following sections shall be inserted, namely:—

"*Appointment of Deputy Ministers.*—9-A. (1) His Highness may on the advice of the Prime Minister appoint Deputy Ministers to work in such Ministries as the Council may consider necessary.

(2) The Deputy Ministers shall be selected from amongst the members of the Legislative Assembly.

(3) The Deputy Minister before entering on the duties of his office shall take an oath of office before the Prime Minister in the form set out in Schedule I.

Salaries of Ministers and Deputy Ministers.— 9-B. (1) The Salaries and allowances of Ministers shall be such as the Legislative Assembly may from time to time by Act determine and until the Legislative Assembly so determines, Ministers shall draw such salaries and allowances as they were drawing immediately before the commencement of the Legislative Assembly.

(2) The Salaries and allowances of Deputy Ministers shall be such as may be determined by the Legislative Assembly from time to time and until the Legislative Assembly so determines, the salaries and allowances of Deputy Ministers shall be as set out in Schedule II".

Amendment o section 10, Act XIV of 1996.—8. After sub-section (3) of section 10 of the said Act the following sub-section shall be added, namely:—

"(4) The Council may make rules not inconsistant with this Act in regard to the duties of the Advocate General".

Omission of section 12, Act XIV of 1996.—9. Section 12 of the said Act shall be omitted.

Substitution of words "Legislative Assembly" for the words "Praja Sabha" in Part III, Act XIV of 1996.—10. In Part III of the said Act, for the words "Praja Sabha", wherever they occur, the words "Legislative Assembly" shall be substituted.

Substitution of section 13, Act XIV of 1996.—11. For section 13 of the said Act, the following section shall be substituted, namely:—

"*Legislature*:—13. (1) The Legislature of the State shall consist of His Highness and a House to be known as the Legislative Assembly.

(2) Notwithstanding anything contained in this Act, the powers of the Legislative Assembly under this Act shall, until other provision is made by or in accordance with a law made by the Constituent Assembly set up under the Proclamation dated 20th April 1951, be exerciseable by the said Constituent Assembly and references in this Act to the Legislative Assembly shall be construed accordingly.

(3) The Legislative Assembly may make rules and Standing Orders, subject to the provisions of this Act, for regulating their procedure and conduct of their business.

(4) Until rules are made under sub-section (3), the Rules of Procedure and Standing Orders in force in relation to the Praja Sabha shall apply to the Legislative Assembly, subject to such modifications and adaptations as may be made therein by the Speaker of the Legislative Assembly."

Omission of section 14, Act XIV of 1996.— 12. Section 14 of the said Act, shall be omitted.

Substitution of section 15, Act XIV of 1996.— 13. For section 15 of the said Act, the following section shall be substituted, namely:—

"*Summoning of the Legislative Assembly.*—15. (1) The Legislative Assembly shall be summoned to meet at least twice in a year and more than six months shall not intervene between its last sitting in one session and the date appointed for its first sitting in the next session.

(2) Subject to the provisions of this section, the Speaker of the Legislative Assembly may from time to time :—

(a) summon the Legislative Assembly to meet at such time and place as he thinks fit.

(b) prorogue the Legislative Assembly."

Amendment of section 16, Act XIV of 1996.— 14. In section 16 of the said Act—

(i) in clause (b) the words "or any other Minister" shall be omitted, and

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(ii) in clause (c) for the words "the President" the words "the Speaker" shall be substituted.

Amendment of section 17, Act XIV of 1996.—15. In section 17 of the said Act, for the words "the President" the words "the Speaker" shall be substituted.

Substitution of section 19, Act XIV of 1996.—16. For section 19 of the said Act, the following section shall be substituted, namely:—

"*Speaker & Deputy Speaker.*— 19. (1) The Legislative Assembly may choose two members of the Assembly to be respectively Speaker and Deputy Speaker thereof and so often as the office of the Speaker or Deputy Speaker becomes vacant, the Assembly may choose another member to be the Speaker or the Deputy Speaker, as the case may be.

(2) Until the Legislative Assembly elects a Speaker and Deputy Speaker, as provided in sub-section (1), the President and Deputy President of the Constituent Assembly shall Act as Speaker and Deputy Speaker of the Legislative Assembly."

Amendment of section 20, Act XIV of 1996.—17. In section 20 of the said Act—

(i) sub-section (1) shall be omitted;

(ii) sub-section (2) shall be renumbered as sub-section (1) and in the sub-section as so renumbered-

(a) for the words "Deputy President" the words "Deputy Speaker" and for the words "the President", wherever they occur, the words "the Speaker" shall be substituted; and

(b) the words "with the approval of the Council" shall be omitted; and

(iii) for sub-section (3) the following sub-section shall be substituted, namely: —

"(2) During the temporary absence af the Speaker and the Deputy Speaker from a meeting of the Legislative Assembly such person shall act a Speaker as may be determined by the Rules of Procedure of the Legislative Assembly or if no such person is present such other person as may be determined by the Assembly."

Amendment of section 21, Act XIV of 1996.—18. In section 21 of the said Act, for the words "Deputy President" the words "the Speaker or the Deputy Speaker" shall be substituted.

Substitution of section 22, Act XIV of 1996.—19. For section 22 of the said Act, the following section shall be substituted, namely:—

"*Parliamentary Secretaries.*—22. (1) The Council may oppoint from among the members of the Legislative Assembly as many Parliamentary Secretaries for such period and on such terms and conditions as the Council may think fit.

(2) The Council may make rules not inconsistent with the provisions of this Act in regard to the duties of Parliamentary Secretaries."

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Substitution of section 23, Act XIV of 1996.—20. For section 23 of the said Act, the following section shall be substituted, namely:—

"*Legislative power of the Legislative Assembly.*—23. Subject to the provisions of this Act the Legislative Assembly may make laws for the whole or any part of the State and for the State subjects, wherever they may be, except in regard to those matters enumerated in List I in the Seventh Schedule to the Constitution of India with respect to which the Parliament of India has power to make laws for the State."

Omission of section 24, Act XIV of 1996.—21. Section 24 of the said Act shall be omitted.

Amendment of section 25, Act XIV of 1996.—22. In section 25 of the said Act—

(i) in sub-section (1) for the word "President" the word "Speaker" shall be substituted, and

(ii) in sub-section (3) for the words "one-fifth", wherever they occur, the words "one fourth" shall be substituted.

Omission of sections 26, 27 and 28, Act XIV of 1996.—23. Sections 26, 27 and 28 of the said Act shall be omitted.

Substitution of section 30, Act XIV of 1996.—24. For section 30 of the said Act, the following section shall be substituted, namely:-

"*Allowances and Salaries.*—30. The Speaker, the Deputy Speaker and the members of the Legislative Assembly shall receive such salaries and allowances as may be determined by an Act of the Legislative Assembly and until that Act is passed such salaries and allowances shall be as set out in Schedule III."

Amendment of section 31, Act XIV of 1996.—25. In sub-section (3) of section 31 of the said Act, for the words "in English" the words "both in Urdu and English" shall be substituted.

Amendment of section 32, Act XIV of 1996.—26. In section 32 of the said Act, the proviso shall be omitted.

Omission of section 34, 35 and 36, Act XIV of 1996.—27. Sections 34, 35 and 36 of the said Act shall be omitted.

Substitution of section 38, Act XIV 1996.—28. For section 38 of the said Act, the following section shall be substituted, namely:—

"*Ordinances and Proclamations.*—38. Notwithstanding anything contained in this Act, the Council may, in cases of emergency or where immediate legislation is required in any matter affecting the peace and good government of the State, submit to His Highness an Ordinance or Proclamation and such Ordinance or Proclamation on being assented to by His Highness and on being published in the Gazette, shall have the force of law for a period not exceeding six months from the date of its promulgation:

Provided that the power of making an Ordinance or Proclamation under this section shall extend only to matters with respect to which the Legislative Assembly has power to make laws:

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Provided further that any such Ordinance or Proclamation may be controlled or superseded by an Act of the Legislature."

Omission of sections 39 and 40, Act XIV of 1996.—29. Sections 39 and 40 of the said Act shall be omitted.

Amendment of section 41, Act XIV of 1996.—30. In section 41 of the said Act, the proviso shall be omitted.

Substitution of section 43, Act XIV of 1996.—31. For section 43 of the said Act, the following section shall be substituted, namely:—

"*Expenditure charged on the revenues of the State.*—43. The following expenditure shall be the expenditure charged on the revenues of the State:

(a) Allowances of His Highness and other expenditure relating to his office;

(b) Debt charges for which the State is liable including interest, sinking fund charges and redemption charges and other expenditure relating to the raising of loans and service redemption of debt ;

(c) Salaries, allowances and pensions payable to or in respect of the Judges of the High Court and the Members of His Highness' Board of Judicial Advisers ;

(d) Expenditure relating to Constituent Assembly and its Staff;

(e) Any sums required to satisfy any judgment decree or award of any court or arbitral tribunal ;

(f) Any other expenditure declared by this Act or any Act of the Legislative Assembly to be so charged."

Amendment of section 45, Act XIV of 1996.—32. In section 45 of the said Act:

(i) at the end of sub-section (1) fullstop shall be deleted, and the following words shall be added, namely:—

"but nothing in this sub-section shall be construed as preventing the discussion in the Legislative Assembly of any of these estimates."

(ii) provisos to sub-section (2) shall be omitted.

Substitution of section 46, Act XIV of 1996:—33. For section 46 of the said Act, the following section shall be substituted, namely:

"*Supplementary Expenditure.*—46. If in respect of any financial year a further expenditure from the revenues of the State becomes necessary over and above the expenditure authorised for that year the Council shall have the power to authorise that expenditure. A statement of the expenditure so authorised shall be presented to the Legislative Assembly along with the financial statement for the following year and the provisions of the preceding sections shall have effect in relation to that statement of the expenditure as they have in relation to the annual financial statement."

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Amendment of section 48, Act XIV of 1996.—34. In sub-section (b) of section 48 of the said Act for the words "one or more Judges" the words "two or more other Judges" shall be substituted.

Amendment of section 49, Act XIV of 1996.—35. In section 49 of the said Act, for the figures "55" the word "sixty" shall be substituted; and the first proviso shall be omitted.

Amendment of section 51, Act XIV of 1996.—36. In section 51 of the said Act, for the words "British India" wherever they occur, the word "India" shall be substituted.

Substitution of section 72, Act XIV of 1996.—37. For section 72 of the said Act, the following section shall be substituted, namely:-

"*Prerogative.*—72. Nothing in this Act shall derogate from the prerogative of His Highness to grant pardons, reprieves, respites or remissions of punishment."

Amendment of section 75, Act XIV of 1996.—38. In section 75 of the said Act, the words "Subject to the provisions of section 5" shall be omitted.

Omission of sections 77 & 78, Act XIV of 1996.—39. Sections 77 and 78 of the said Act shall be omitted.

Substitution of Schedule I, Act XIV of 1996.—40. For Schedule I of the said Act, the following Schedule shall be substituted, namely:—

"SCHEDULE I

(See sections 8, 9-A and 53).

FORMS OF OATH.

Oath for Ministers.

FORM A.

I, A B., having been appointed Minister do swear in the name of God/solemnly affirm that I will bear true faith and allegiance to the Constitution of the State as by Law established and that I will faithfully discharge the duty upon which I am about to enter.

I further do swear in the name of God/solemnly affirm that I will not directly or indirectly communicate or reveal to any person or persons any matter which shall be brought under my consideration or shall become known to me as Minister except as may be required for the due discharge of my duties as such Minister.

FORM B.

Oath for Deputy Minister.

I, A. B., having been appointed Deputy Minister do swear in the name of God/solemnly affirm that I will bear true faith and allegiance to the Constitution of the State as by law established and that I will faithfully discharge the duty upon which I am about to enter.

I further do swear in the name of God/solemnly affirm that I will not directly or indirectly communicate or reveal to any person or persons any matter which shall be brought under my consideration or shall become known to me as Deputy Minister except as may be required for the due discharge of my duties as such Minister.

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FORM

Oath for Members of His Highness' Board of Judicial Advisers & for Judges of the High Court.

I, A. B., having been appointed President/a Member of His Highness' Board of Judicial Advisers, Chief Justice(or Judge) of the High Court of Judicature, Jammu and Kashmir State, do swear in the name of God/solemnly affirm that I will bear true faith and allegiance to the Constitution of the State as by law established, that I will duly and faithfully and to the best of my ability, knowledge and judgment perform the duties of my office without fear or favour, affection or ill-will and that I will uphold the Constitution and the laws".

Substitution of Schedules II and III, Act XIV of 1996:—40. For Schedules II and III, the following Schedules shall be substituted, namely:—

"SCHEDULE II.

Salary and allowances of Deputy Ministers.

i) Salary Rs. 800/- per month;

(ii) Conveyance allowance Rs. 200 per month provided a car is maintained;

(iii) Actual cost of petrol for journeys beyond ten miles radius of the Headquarters, but no daily allowance or travelling allowance except for journeys performed by air and for halts outside the State in which he will draw actual expenses;

(iv) Privilege leave as for permanent Government Officers.

SCHEDULE III.

Salary and allowances of Speaker, Deputy Speaker and Members.

(I) SPEAKER.

(i) Salary Rs. 1,000 per mensum Income-tax free.

(ii) Free furnished house if the Speaker has not a suitable house of his own to live in at Government Headquarters. This will include free electricity and water supply;

(iii) Free car from the Government with Rs. 200 P. M. for maintenance and cost of petrol consumed within a radius of ten miles of the Headquarters;

(iv) Actual cost of petrol for journeys beyond ten miles radius of the Headquarters, but no daily allowance or travelling allowance except for journeys performed by air and for halts outside the State in which he will draw actual expenses;

(v) Privilege leave as for permanent Government Officers.

Note:-So long as the President of the Constituent Assembly holds office of the Speaker of the Legislative Assembly he will be entitled only to such salary and allowances as are admissible to him as President of the Constituent Assembly.

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(II) Deputy Speaker.

(i) Salary Rs. 400 per month;

(ii) Travelling allowance as admissible to the Secretaries to Government under the Kashmir Service Regulations;

(iii) Privilege leave as for permanent Government Officers.

(III) Members.

(i) Allowance at the rate of Rs. 25 per diem;

(ii) Such travelling allowances as are admissible to Government Officers other than Ministers drawing Rs. 750 or more per month under the Kashmir Service Regulations.

Omission of Schedule IV, Act XIV of 1996.—41. Schedule IV of the said Act shall be omitted.

(Sd,) KARANSINGH,
YUVARAJ.

Published for general information.

(Sd.) BADRI NATH,
Secretary to Government,
Law Department.

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TOP SECRET.

Rashtrapati Niwas, Simla.
6th September 1952.

My dear Prime Minister,

When you last saw me, I promised to send you a note on the legal and constitutional aspect of the proposal to substitute a system of elected head for the Jammu and Kashmir State in place of the existing Rajpramukh. I now enclose a note for your consideration. In view of the complexity and importance of the issues involved, I have no doubt that the Attorney-General and the Law Minister will be consulted.

2. I have received a memorial from the Maharaja, a copy of which, I understand, has also been received by you. Prosumably, the Minister for States has also received a copy. I shall be glad in due course to have the comments of yourself and the Minister for States on this memorial.

So flagged (flagged below)

3. I am leaving Simla on the morning of Sunday, the 7th September, for places in the interior of Himachal Pradesh, but will be back by the evening of Tuesday, the 9th September.

4. I am sending copies of this letter with enclosure to the Ministers for Education, Defence

PTO

and States.

Yours sincerely,

Sd/- Rajendra Prasad

Shri Jawaharlal Nehru,
Prime Minister.

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The Prime Minister of Jammu and Kashmir has forwarded a copy of the resolution of the Constituent Assembly of the Jammu and Kashmir State relating to the substitution of a system of elected head of the State in place of a Rajpramukh as at present, with a request to the Government of India to take action to enable effect being given to the resolution. Along with the resolution, two draft notifications to be issued by the President, one under clause (3) of Article 370 of the Constitution of India, and the other under clause (1) of that Article, have also been received. The former draft involves amendment of a provision of the Constitution of India and the latter contemplates a modification of two other provisions of the Constitution in its application to the State of Jammu and Kashmir. The proposal raises questions of considerable importance concerning the constitutional scope of the proposed notifications and also about the competence of the President to have repeated recourse to the extraordinary powers conferred on him by the Article in question.

2. Before I take up this question it is very necessary to know whether any steps are being taken to amend the present constitution of the State of Jammu and Kashmir. It appears from paragraph 6 of the resolution that there is already in existence the Jammu and Kashmir Constitution Act of 1996, which has been amended by Act No.XVII of 2008. Under this constitution the Maharaja is presumably the head of the State, and it would obviously be necessary, as a first step, to amend that constitution if it is decided to give immediate effect to the proposal now under consideration. Not having a copy of the Jammu and Kashmir Constitution Act I am not in a position to say whether provision exists

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in that constitution for its amendment, but inasmuch as it has been amended as recently as the Hindu year 2008, I believe such provision does exist. I suggest that this question needs looking into.

3. The first draft notification enclosed with the letter of the Prime Minister of Jammu and Kashmir purports to be issued under clause (3) of Article 370. This clause is of a peculiar and exceptional nature inasmuch as it authorises amendments of the Constitution by an executive act of the Government of India as distinguished from Parliament. The Constitution of India contemplates and lays down, apart from this Article, two methods for its amendment. An amendment proper of the Constitution can be effected by the special procedure laid down in Article 368. There are certain other provisions in the Constitution in regard to which it is specially and specifically laid down that Parliament, by ordinary legislation, can effect changes. In both these cases it is the Parliament alone which can effect amendments. In the first case, even the power of Parliament to amend the Constitution is limited inasmuch as it can do so only if the special procedure provided in Article 368 is followed. In the second group of cases the Parliament is left free to pass legislation which may amount to amendment of the Constitution as laid down. Nowhere else, as far as I can see, is there any provision authorising the executive government to make amendments in the Constitution, the temporary provisions contained in Article 291 and 292 having come to an end. There can be no doubt that Article 370, and particularly clause (3) thereof, is of an exceptional nature. While it safeguards in clause (2) the right of the Constituent Assembly of Jammu and Kashmir to revise or annul any action taken by

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the Government of that State in giving concurrence under clause 1(b)(ii) and the second proviso to clause 1(d) of Article 370, it excludes altogether the Parliament of India from having any say regarding the Constitution of Jammu and Kashmir and places full power in the hands of the Government, including the power to amend the Constitution of India. It is, therefore, necessary to examine the wording of this peculiar clause with some care for a correct appreciation of the intention underlying this provision. It is laid down in very wide and comprehensive terms that -

> "Notwithstanding anything in the foregoing provisions of this article, the President may, by public notification, declare that this article shall cease to be operative or shall be operative only with such exceptions and modifications and from such date as he may specify:
>
> "Provided that the recommendation of the Constituent Assembly of the State referred to in clause (2) shall be necessary before the President issues such a notification."

4. Clause (1) of this Article lays down that

(a) the provisions of Article 238 shall not apply in relation to the State of Jammu and Kashmir;

(b) that the power of Parliament to make laws for the said State shall be limited to

(i) those matters in the Union List and the Concurrent List which, in consultation with the Government of the State, are declared by the President to correspond to matters specified in the Instrument of Accession governing the accession of the State to the Dominion of India as the matters with respect to which the Dominion Legislature may make laws for that State; and

(ii) such other matters in the said List as with the concurrence of the Government of the State the President may by order specify.

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Then follows explanation of the term "Government of the State", namely, the person for the time being recognised by the President as the Maharaja of Jammu and Kashmir acting on the advice of the Council of Ministers for the time being in office under the Maharaja's Proclamation dated the fifth day of March 1948.

5. The Article proceeds further to lay down in paragraphs (c) and (d) of clause (1) that the provisions of Article 1 and of this Article shall apply in relation to that State; and that such of the other provisions of the Constitution shall apply in relation to that State subject to such exceptions and modifications as the President may by order specify: Provided that no such order which relates to the matters specified in the Instrument of Accession of the State referred to in paragraph (i) of sub-clause (b) shall be issued except in consultation with the Government of the State: and provided further that no such order which relates to matters other than those referred to in the last preceding proviso shall be issued except with the concurrence of that Government.

6. The present proposal is to amend the Explanation in clause (1) by substituting for the words "as the Maharaja of Jammu and Kashmir acting on the advice of the Council of Ministers for the time being in office under the Maharaja's Proclamation dated the fifth day of March, 1948", the words "as the Sadar-i-Riyasat of Jammu and Kashmir acting on the advice of the Council of Ministers for the time being in office."

7. It is worth noting that, while the proviso to clause (3) of Article 370 lays down that the recommendatic of the Constituent Assembly of the State is a condition precedent to the issue of any notification by the

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President under the substantive provisions of the clause, it does not make it obligatory for the President to issue a notification to give effect to any recommendation that he may receive from the Constituent Assembly. Presumably it is deliberately so worded in order that the recommendation of the Constituent Assembly could be examined on its merits before the President is advised to issue a notification under that clause. It is also worth noting that the clause envisages two alternatives for the President, namely, either to declare that the whole of Article 370 shall cease to be operative or to declare that it shall be operative only with exceptions and modifications. In either case the President is further required to specify the date from which the notification is to take effect. As I have already observed, the scope of this Article, if literally interpreted, is exceedingly wide. Suppose the first alternative is adopted and the whole of the Article is declared to be inoperative, what will be the result ? One view would be that the Article being in the nature of an exception to the application of the Constitution to the State of Jammu and Kashmir, abrogation of that Article would result in the whole Constitution becoming applicable to the State of Jammu and Kashmir without any exception or modification. But the Article itself has been very peculiarly worded, for paragraph (c) of clause (1) of that Article expressly applies the provisions of Article 1 and of that Article to the State. In fact, it is because of this application of Article 1 to the State that the State is included within the territories of the Union. The abrogation of Article 370 abrogates along with it application of Article 1 to the State, with the result that the State ceases to be part of the territory of India. I do not think that that could have been the intention of the framers of the Constitution, for nowhere is the President

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empowered to exclude any portion of the territories of India from the Union. As a matter of fact, Article 2 contemplates the admission of fresh territories into the Union or the establishment of new States, but nowhere does the Constitution contemplate the exclusion of any territory from the territories of the Union.

8. Further, under the second alternative envisaged in clause (3), extensive power is conferred on the President to apply the Constitution to the State with such exceptions and modifications as may be specified in the notification, and the question at once arises whether such an extensive power is exercisable from time to time or is exhausted by a single exercise thereof. Judging by the language employed and by the very exceptional nature of the power conferred, I have little doubt myself that the intention is that the power is to be exercised only once, for then alone would it be possible to determine with precision which particular provisions should be excepted and which modified. The fact that the President is also required to specify the date from which the notification is to take effect also tends to confirm this view. Although the phrase "exceptions and modifications" is used, there can be no doubt that what is involved is really an amendment by executive order of the Constitution in relation to the State of Jammu and Kashmir. Parliament could never have intended that such an extraordinary power of amending the Constitution by executive order was to be enjoyed without any limitation as to the number of times on which it could be exercised or as to the period within which it was exercisable or as to the scope and extent of the modifications and exceptions that could be made. It cannot be seriously maintained that for all time to come the application of our Constitution to Jammu and Kashmir would derive its authority from Article 370, to the complete

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exclusion of Parliament. The marginal note to Article 370 itself describes the nature of the Article as "Temporary provisions with respect to the State of Jammu and Kashmir". The conclusion, therefore, seems to me to be irresistible that clause (3) of Article 370 was not intended to be used from time to time as occasion required. Nor was it intended to be used without any limit as to time. The correct view appears to be that recourse is to be had to this clause only when the Constituent Assembly of the State has fully framed the Constitution of the State and has recommended its implementation through a notification under that clause. Once this notification is issued, the power conferred by clause (3) becomes exhausted, and any further changes that may be required can only be given effect to by Parliament through the special procedure prescribed by Article 368.

I had formed this view on a consideration of the nature and contents of the clause itself, but subsequently I have looked into the debates of the Constituent Assembly, and the speech made by Shri N. Gopalaswami Ayyangar when proposing his motion on Article 306A, which is now Article 370, leaves no room for doubt on this point. He said:

> "The last clause refers to what may happen later on. We have said Article 211A (now Article 238) will not apply to the Jammu and Kashmir State. But that cannot be a permanent feature of the Constitution of the State, and hope it will not be. So the provision is made that when the Constituent Assembly of the State has met and taken its decision both on the Constitution for the State and on the range of federal jurisdiction over the State, the President may on the recommendation of that Constituent Assembly issue an order that this Article 306A shall either cease to be operative, or shall be operative only subject to the exceptions and modifications as may be specified by him. But before he issues any order of that kind the recommendation of the Constituent Assembly will be a condition precedent. That explains the whole of this Article.
>
> "The effect of this article is that the Jammu and Kashmir State which is now a part of India will continue to be a part of India, will be a unit of the future Federal Republic of India and the Union Legislature will get jurisdiction to enact laws on matters specified either in the Instrument of Accession or by later addition with the concurrence of the Government of the State and steps have to be taken for the purpose of convening a Constituent Assembly in due course which will go into

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> the matters I have already referred to. When it has come to a decision on the different matters it will make a recommendation to the President who will either abrogate article 306A or direct that it shall apply with such modifications and exceptions as the Constituent Assembly may recommend. That, Sir, is briefly a description of the effect of this article, and I hope the House will carry it."

It was thus clearly contemplated that the Constituent Assembly of the State should come to a decision on all the matters before making a recommendation to the President either to abrogate Article 370 or to apply it with such exceptions and modifications as that Constituent Assembly may recommend. Our Constituent Assembly adopted this Article on this representation which, in my view, correctly describes what should properly be done before such a serious step as the making of exceptions and modifications in the Constitution of India in its application to the State of Jammu and Kashmir is taken. The Constituent Assembly of the State has not yet considered the matters on which agreement was recently reached between the Government of India and the Government of Jammu and Kashmir. This agreement has left many important details still to be determined, and we do not know what shape they will eventually take. The present proposal merely touches one item of the State's constitution, namely the headship of the State, and even in respect of this item the recommendation is not complete as it leaves many important connected matters such as the powers and functions of the proposed head of the State to be determined later by the Constituent Assembly.

9. I have not overlooked the interpretation clause contained in Article 367 of the Constitution. Clause (1) of that Article lays down that unless the context otherwise requires, the General Clauses Act, 1897, shall, subject to any adaptations and modifications that may be made therein under Article 372, apply for the interpretation of the

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Constitution as it applies for the interpretation of an Act of the Legislature. The relevant section of the General Clauses Act, 1897, in section 14(1), which says:

> "Where by any Central Act of Regulation made after the commencement of this Act, any power is conferred, then unless a different intention appears, that power may be exercised from time to time as occasion requires."

In my view, this section does not help because, as I have already said, a different intention does appear, which shows that the power conferred by clause (3) of Article 370 is to be exercised only once.

10. We do not know what jurisdiction, if any, the Supreme Court will have in regard to any question arising out of the interpretation either of the Constitution of India as it applies to the Jammu and Kashmir State or of the Constitution of Jammu and Kashmir itself. It cannot be ruled at this stage that the Supreme Court will not have any jurisdiction to interpret and pronounce on the validity of any of these provisions. In any case the constitutional validity of an order made by the President under the existing provisions of the Constitution might conceivably be challenged before the Supreme Court by a private citizen even if the Government of Jammu and Kashmir or the Government of India may not choose to raise it and may even be opposed to its being raised.

11. It may not also be ruled that the power which the Constituent Assembly of Jammu and Kashmir claims may not be challenged in view of the fact that it owes its existence to, and has been convened in virtue of, the Proclamation of the Maharaja dated the 5th day of March 1948 which severely limits its powers. Such right as the Government of India has with regard to the accession of the State of Jammu and Kashmir to India is derived from the Instrument of Accession executed by the Maharaja on the 26th October 1947, which is mentioned in

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Article 370(1)(b)(i), and the Constitution of India, including Article 370, has become applicable to the State of Jammu and Kashmir under the Proclamation of the Maharaja dated the 25th November 1949, which was necessitated by a provision in the Instrument of Accession requiring the acceptance by the Maharaja of the Constitution of India. The situation becomes complicated and intriguing when it is recalled that both the Government of India and the Constituent Assembly of Jammu and Kashmir derive such authority as they possess in regard to Jammu and Kashmir from the Maharaja and the Maharaja is completely left out of the picture in complete disregard of express provisions in the Proclamation under which the Constituent Assembly is convened and acts and a decision eliminating him altogether is taken. It is, therefore, necessary to clearly understand and appreciate the legal and constitutional implications of the various factors involved and to take legal advice both as regards the substance and the form of any notification under Article 370(3), or any other action which the Government of India proposes to take in regard to the Constitution of Jammu and Kashmir.

12. Coming to the second draft notification, which purports to be issued under clause (1) of Article 370, its main effect, as I see it, is to exclude the application to Jammu and Kashmir of paragraph (b) of clause (21) of Article 366 which defines "Rajpramukh" to mean:-

> "in relation to the State of Jammu and Kashmir or the State of Mysore, the person who for the time being is recognised by the President as the Maharaja of that State."

This is consequential on the proposed amendment of the Explanation in clause (1) of Article 370, but I doubt if the mere exclusion of this provision from its application to Jammu and Kashmir will solve the problem. The definition will still continue to figure in the Constitution in its application to the rest of India. This will

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no doubt create an anomalous situation, and it would be necessary to have recourse to an amendment of the Constitution through the special procedure laid down in Article 368. This question too will have to be carefully examined.

13. There is one other matter which is of significance, which has to be taken into consideration. In clause (3) of the Resolution passed by the Constituent Assembly of Jammu and Kashmir, it is laid down that the method of election to, qualifications for and all other matters pertaining to the office of the head of the State shall be prescribed in the Constitution, and until these are so prescribed, shall be as set out in the rules contained in the Schedule annexed to that Resolution. In the Schedule annexed to the Resolution, the form of the oath which the Sadar-i-Riyasat will have to take before entering upon his office is laid down in paragraph 6. He is required to swear that he will faithfully execute the office of Sadar-i-Riyasat, Jammu and Kashmir, and will, to the best of his ability, preserve, protect and defend the Constitution of the State as by law established, and that he will devote himself to the service and well-being of the people of that State. This form of the oath differs from the oath prescribed for Governors of States under Article 159 of the Constitution of India, which has been made applicable to Rajpramukhs, and lays down that he will do the best of his ability preserve, protect and defend the Constitution and the law and that he will devote himself to the service and well-being of the people of the particular State which is to be named. It has to be considered whether the Sadar-i-Riyasat should not be required to swear allegiance to the Constitution of India and pledge himself to preserve, protect and defend that Constitution also.

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14. In conclusion, I note that the question of the Maharaja's abdication does not necessarily arise out of the proposed substitution of a system of elected head for the existing Rajpramukh of Jammu and Kashmir. By ceasing to be Rajpramukh of Jammu and Kashmir the Maharaja does not necessarily cease to be the recognised Maharaja of Jammu and Kashmir.

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(Proposed addition to paragraph 12).

There is doubt also regarding the power of the President to issue the proposed notification. Under Article 370(1) you can only extend the application of other articles of the Constitution, but you cannot withdraw the application of any article of the Constitution which has once been made applicable to Jammu & Kashmir if the article is strictly construed. Clause (d) gives the President power only to apply with exceptions and modifications other articles, but it does not give power to withdraw the application of any article which has once been applied, or to insert exceptions and modifications to any provisions of the Constitution which have been applied without such modifications and exceptions. Nor does Article 370(3) help as it permits only a declaration that the article 370 shall cease to be operative or shall be operative with exceptions and modifications. In other words under it amendments to Article 370 itself may be made but not to any other article of the Constitution. If any such amendment to any other article is considered necessary, it will have to be by the method laid down for amendment of the Constitution under Article 368.

Shri Ayyangar
President.
Omit in
view of Sec. 21 of
the General Clauses
Act.
6/9

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TOP SECRET.

Rashtrapati Niwas, Simla.
6th September 1952.

My dear

I send herewith, for your information, a copy of a letter I have written today to the Prime Minister, together with a copy of its enclosure, about the proposal to substitute a system of elected head for the Jammu and Kashmir State in place of the existing Rajpramukh.

Yours sincerely,
Sd/- Rajendra Prasad.

pages 72-73 ante

pages 74 to 85

Maulana Abul Kalam Azad,
Minister for Education.

Shri N. Gopalaswami Ayyangar,
Minister for Defence.

Dr. K.N. Katju,
Minister for States.

Issued
6/9/1952.

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copy made for R.P. Roys. 16/8/62

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TOP SECRET.

No. 4336-PM

New Delhi,
September 7, 1952.

Read by Maj on 8/9/52.

Vol 2 Pg.

My dear Mr President,

- pages 72-73 ante

Thank you for your letter of the 6th September, 1952, enclosing a note in regard to the Jammu and Kashmir State.

The Minister of States, Dr Katju, is already in touch with the Attorney General and will, no doubt, take his opinion on the points raised in your note.

I have received a copy of the memorandum which Maharaja Hari Singh has sent you. This memorandum is a very tendentious one and is obviously written in some anger. In the main, it is an attack on Shaikh Abdullah and, to a lesser extent, on me. Those of us who have been intimately connected with developments in Kashmir during the past few years know that this bald statement of the Maharaja, apart from being incorrect in particulars, leaves out an account of the entire background of rather a revolutionary changes that we have had to face. Because we have addressed the Maharaja occasionally in a friendly manner, trying to induce him to agree to certain proposals, and not to embarrass him, he now tries to take advantage of these communications. It has been very difficult to deal with him during all these years. I have little doubt that the very unusual developments that have taken place in Kashmir would have been very different but for the ineptitude of the Maharaja.

In the years preceding the Pakistan invasion, the Maharaja's Government functioned in an extraordinary way, and the Maharaja himself kept aloof from everybody, even his Ministers. Except for his Minister-in-waiting or the then Prime Minister, he did not encourage his other Ministers or others to see him. In 1946 a repression on a widespread scale was launched against the national movement in Kashmir and all the leaders of it, including Shaikh Abdullah, were arrested. It was in this connection that even I was arrested on entry into Kashmir. Every effort of ours to help in the solution of the difficulties in Kashmir was repulsed. The Maharaja at the time, as he confessed later, was entirely in the hands of his then Prime Minister, Mr Kak. It was this state of affairs which led directly to the serious developments that followed.

The Maharaja was practically unapproachable. Even when Lord Mountbatten went to Srinagar as Viceroy, the Maharaja avoided discussing anything with him, although that was the purpose of the Viceroy's visit. Lord Mountbatten told me then that the Maharaja went on postponing a talk to the last day of his visit. On that last day he sent word that he was feeling ill and therefore could not meet him. The result was that Lord Mountbatten had no occasion to discuss this matter with the Maharaja, although he met him casually at some meals. The Maharaja refers to the advice that Lord Mountbatten gave him. He must have got this impression from some very casual conversation, because Lord Mountbatten was very much annoyed with him at the way he had avoided talking

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to him about important matters for which he had gone there.

This has been the practice of Maharaja Hari Singh whenever any important discussion was to take place. I find that our States Minister was sending the Secretary of the States Ministry, Shri Venkatachar, to Maharaja Hari Singh for a discussion. The moment this information reached the Maharaja, he telegraphed to say that he was down with fever and would not be able to talk with Shri Venkatachar for some days. Hence the visit of the States' Secretary has been postponed.

Maharaja Hari Singh has been in the past a very difficult person to deal with, living in a narrow world of his own, without contacts except with some intimate courtiers, weak and afraid of meeting people, and yet obstinate and raising all kinds of difficulties at every stage. His Government in previous years could hardly function because nothing new could be done without his permission and he remained silent. He was abnormal then; now from such accounts as I have received, he is more than abnormal and has almost become a mental case.

I have been very intimately connected with Kashmir during these many years and in my opinion Maharaja Hari Singh has to shoulder a very heavy responsibility for the ills that have descended upon the Jammu and Kashmir State. Even after accession events happened in Jammu which were deplorable in the extreme and which were said to have been initiated or encouraged by the Maharaja. Mahatma Gandhi spoke publicly about these events at his prayer meetings and held the Maharaja responsible for them.

In spite of all this, the Government of India tried to protect the Maharaja from the consequences of his own follies and treated him with all courtesy. That courtesy is now utilised as a witness to some special position guaranteed to him.

As you are aware, the question of the Jammu and Kashmir State is of high political, and even international, importance. It is something much more than the individual case of Maharaja Hari Singh. During these past five years the mere question of accession to India has been in dispute before an international organisation. A war has taken place and now we live in some kind of a condition which is between war and peace. There has been a cease-fire, but no regular truce yet, and our armies have to guard the cease-fire line and our frontiers continuously. We have declared repeatedly before the world that it is for the people of Kashmir to decide their future. Maharaja Hari Singh does not come into this larger picture at all, except that we have always tried to protect such of his interests as we thought worthy of protection.

Recently other developments have taken place and not only our Government, but our Parliament have signified their approval of a certain agreement arrived at with the Kashmir Government. This agreement has been ratified also by the Jammu and Kashmir State Constituent Assembly. That agreement

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has to be given effect to, and any repudiation of any part of that agreement would not only be highly improper but would entail very serious consequences. The matter has, therefore, to be viewed on this high political level and not on the basis of the personal wishes or aversions of Maharaja Hari Singh.

The Yuvraj has informed us of his acceptance of this agreement and, as a consequence, he will accept the Headship of the State when formally offered to him.

The proper course would have been for Maharaja Hari Singh to abdicate formally. If he is not agreeable to doing so, it is inevitable that he should be removed from his formal position by other means. He had agreed to this abdication, but he made certain conditions, the chief of which was that he should be paid some arrears of his privy purse amounting to, according to him, rupees thirty-eight lakhs. So far as I know, he has absolutely no justification for this claim. At any time this would have been extraordinary, but to claim this money when his State has been ravaged by war and upheavals and has suffered greatly, shows an insensitiveness and an ignorance of contemporary events, which is truly amazing.

We have no desire to treat Maharaja Hari Singh with discourtesy or not to make adequate provision for him. As a matter of fact, he has very large private resources. What exactly these are is not known to us. But it is believed that his investments in India and abroad amount to several crores of rupees. According to his own Secretary's statement they amount to 85 lakhs. There is no chance therefore of his suffering from lack of financial resources. Out of the privy purse that he has been receiving during the last three years or so, he has been far from generous even towards his wife and his son.

It is our intention to fix a privy purse of rupees ten lakhs for the new head of the State. Out of this rupees one lakh should go to the Yuvraj's mother and five lakhs to Maharaja Hari Singh. The balance of four lakhs would remain with the Yuvraj, who presumably will be the new head of the State. This is a generous offer for Maharaja Hari Singh.

As I have mentioned to you, it is our intention to take up the whole question of the privy purses of all the rulers and princes in India and to try to arrive at a fairer adjustment of these figures which will be more in keeping with conditions as they are in India. That is a larger matter which will have to be considered later in consultation with the princes concerned.

Yours sincerely,

Jawaharlal Nehru

Dr Rajendra Prasad,
President,
Simla.

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EDUCATION MINISTER,
INDIA.
NEW DELHI

8th Septr., 1952.

SECRET

Copy made for R.P. 16/8/52

Seen by President.
1501
11.9.52.

My dear Dr. Rajendra Prasad, p.72

Thank you for your letter dated the 6th September, 1952, with which you have sent a note regarding Jammu and Kashmir State. I have also received a copy of Panditji's letter p.88 ante to you in this connection. I shall speak to Panditji about it.

Yours sincerely,

A. K. Azad

(A. K. AZAD)

Dr. Rajendra Prasad,
President of India,
Rashtrapati Niwas,
SIMLA

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CONFIDENTIAL

17th September 1952

My dear Dr.Katju,

I am enclosing a cutting from the DELHI EXPRESS of the 16th September. Has the States Ministry or the Home Ministry any information to confirm, contradict or explain what is mentioned in the cutting ? What is this new policy which the Communist Party is said to have adopted regarding Kashmir ? My impression was that during the last session of Parliament, they supported the policy of Sheikh Abdulla which was accepted by our Government. Is there any change in it now ?

I hope you have got over the effects of your recent illness. I am myself more or less normal now after a sudden illness of a few days.

Yours sincerely,

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Dr. K.N.Katju,
Minister for States & Home
Affairs, New Delhi.

Enc: Cutting from the "Delhi Express" dt/16-9-52, — "2 Kashmir Ministers may resign." — Jammu, Sept. 15, 1952.

Issued with encl.
17/9/52

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CUTTING FROM THE DELHI EXPRESS
dated 16th Septr. 1952.

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2 KASHMIR MINISTERS MAY RESIGN

Jammu, Sept. 15.

Two Ministers of the Kashmir Government, who are said to be pro-Communists will, it is reliably learnt, submit their resignations shortly from the State Cabinet.

Circles close to the Kashmir Communist headquarters indicate that following the new policy adopted by the Communist Party of India regarding Kashmir, it has been decided that all party men, who are in Kashmir State services or in National Conference organisation should resign forthwith.

It may be recalled that Communists in Jammu and Kashmir, only a few days ago, announced their separation from National Conference. Formerly they were working in the name of that organization.

It is furhter understood an important meeting of the State Cabinet will be held at Srinagar after the return of the Premier, Sheikh Abdullah, from Indore.

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(367) F.29(21)-HM/52

MINISTER FOR HOME AFFAIRS. 91c

PERSONAL.

New Delhi, 19. 9. 1952.

OFFICE OF THE PRESIDENT OF INDIA.
Dy. No. 1949-O/52
Date 26.9.52

My dear Rajen Babu,

I am in receipt of your letter dated the 17th instant and I am very happy to learn that you have now been restored to health. I did not purposely bother you with a letter from myself. I was getting daily news at Indore from communications made by Major General Chatterjee about your health.

We have no information about the matter mentioned in the cutting from the DELHI EXPRESS which you have sent. I don't think that there is any truth in it; nor am I aware that the Communist Party has adopted any new policy about Kashmir.

I propose leaving tomorrow morning and may be away from Delhi for ten days.

Yours sincerely,

Dr. Rajendra Prasad,
President of India,
Rashtrapati Bhavan,
NEW DELHI.

Submitted with papers.
Sue 21/9/52.

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Copy made for R.P. 16/8/62

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SECRET

New Delhi,
September 19, 1952.

My dear Mr. President,

p. 93-A to 93-H infra

We have been having conferences amongst ourselves and with the Attorney General in regard to the Kashmir issues. The Attorney General will be sending us his written opinion and a copy of this will be forwarded to you.

I might mention that, while he thinks that Article 370(3) of the Constitution can only be invoked once for the purpose of changing that article, it is open to us to utilise the other provisions of that Article, for instance in 370(1)(d), as many times as we like, because this does not involve changing that Article. Thus in order to make a new provision for the Head of the State, which involves changing the explanation in the Article, Article 370(3) will have to be invoked. After that we cannot use that for any further change. But when later we want to add fresh subjects to the list of accession subjects, this can be done repeatedly under other provisions of the Article.

This gets over any difficulty that we might have had and we are now working out the details of this.

Maharaja Hari Singh has agreed to our basic proposal about a privy purse of ten crores to be divided up between him, the Yuvaraj and the Maharani. He is prepared to abdicate but, as usual with him, he tries to create as many difficulties as possible and writes offensive letters. I would feel rather angry with him if I did not think that he was slightly off his head.

We have invited some representatives from the Kashmir Government, including their legal advisers, to work out details of the steps to be taken.

Yours sincerely,

Jawaharlal Nehru

Dr. Rajendra Prasad,
President,
Rashtrapati Bhavan,
New Delhi.

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SECRET

93

22nd September 1952

p. 92

My dear Prime Minister,

Thank you for your letter of the 19th September 1952 concerning the Kashmir issue.

I note the purport of the Attorney-General's opinion given in the second paragraph of your letter. After I have studied the Attorney-General's opinion, I shall write to you again if anything further remains to be said.

I am glad that Maharaja Hari Singh has agreed to your basic proposal about a privy purse of Rsten lakhs (the "ten crores" mentioned in your letter is obviously a typing error). I hope that the remaining difficulties will soon be resolved amicably.

Yours sincerely,

Sd/- Rajendra Prasad

Shri Jawaharlal Nehru,
Prime Minister.

Issued by Bag
in double sealed cover.
22/9/52.

NATIONAL ARCHIVES OF INDIA

(370)

FROM THE PRESIDENT.

93-A

I have not yet read the Attorney General's opinion. May I have it with the file?

RK 1/10

Herewith

1/10/62

NATIONAL ARCHIVES OF INDIA

No.AGF-(31)/52-4448/29.

93-B

371

Opinion.

1. Further questions having been raised I would prefer to deal with all the points together including those considered in my*Opinion dated the 14th of September 1952.

*No.AGF-(31)/52-4445/28.

2. Article 370 is curiously worded and is difficult to construe. Though the Article does not so expressly provide its implication would appear to be that no other provisions of the Constitution are applicable to the State of Jammu & Kashmir excepting those which are specifically stated in it to be applicable or those which may become applicable by the operation of its provisions. The provision in clause (1)(c) that the provisions of article 1 shall apply in relation to that State, otherwise superfluous, would seem explicable only on the basis of this implication. What would be the effect of a notification under sub-clause (3) declaring that the whole of article 370 shall cease to be operative? Would it be that by reason of clause (1)(c) having ceased to apply article 1 itself would cease to apply to the State of Jammu & Kashmir? Or, would the effect of the cessation of the operation of clause (1)(c) be still to leave article 1 as being applicable to Jammu & Kashmir so that article 238 and the other articles applicable to a Part B State would all be applicable to it? Clause (3) empowers, inter alia, a notification providing that the whole of article 370 shall be operative "only with such exceptions and modifications" as the President may specify. Could the President, acting under clause (3), make a notification declaring, inter alia, that clause (3) itself shall be operative with some modifications?

3. ---

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3. Whatever be the answers to these questions, it appears to me very clear that the whole of clause (3) was intended to be operable once and for all and that after the Constituent Assembly of the State had framed a Constitution for the State. The future of thet the State of Jammu & Kashmir being uncertain at the date of the framing of the Constitution, the Constituent Assembly, having classed it as a Part B State under article 1 of the Constitution, enacted only temporary provisions applicable to it under Article 370. These temporary provisions are set out in clause (1) of Article 370. Clause (3) of the Article envisages these temporary provisions being substituted by a permanent scheme through action taken under it. It enables the President by notification to provide finally how the State should be dealt with in the matter of the applicability of the Indian Constitution to it. The language and the setting of clause (3) clearly indicate an intention that the power given by it shall be exercised not from time to time but only once and for all. This would clearly be so in respect of the power to declare that Article 370 shall cease to be operative. In the context that intention would seem clearly to appear also in regard to the second and alternative declaration which can be made under the clause. The provisions of section 14 of the General Clauses Act applicable to the interpretation of Article 370 under Article 367(1) will not, therefore, govern the interpretation of this clause.

4. In the circumstances that have arisen a change in the phraseology of the Indian Constitution so as to bring it in accord with the proposed change in the Constitution of the Jammu & Kashmir State will have to be quickly brought about. It appears that the substitution of an elected head, the Sadar-i-Riyasat,

NATIONAL ARCHIVES OF INDIA

in the place of the Maharaja of the State is intended to be brought about almost immediately. That cannot be done without bringing about at the same date a change in the phraseology of the Explanation in clause (1) of Article 370, for, otherwise, the provisions of Article 370 intended to provide a temporary constitutional machinery relating to the State of Jammy & Kashmir will not be operable in relation to that State. The only mahhod of bringing about this change would be to take action under clause (3) of Article 370.

5. That will necessarily mean that clause (3) of Article 370 will not be capable of being availed of in the future. The application of any other provisions of the Indian Constitution to Jammu & Kashmir will thereafter have to be made by taking action under Article 370(1)(b) and (d). Normally this should not present any difficulty. If hereafter the State of Jammu & Kashmir is agreeable to the extension of the list of subjects on which Parliament may legislate for the State to give effect to this change action can still be taken under clause (1)(b) of Article 370. Or, if, hereafter, the provisions of the Constitution in regard to the Supreme Court or Indian citizenship or fundamental rights or any other matter are to be applied to the State action to that end can be taken under clause (1)(d) of Article 370. Though there are indications in the language and context of clause (3) that it was intended to be operable once and for all, the same thing cannot be asserted about clauses (1)(b) and (1)(d) of Article 370. The powers of the President under these clauses will, by virtue of the application of section 24 of the General Clauses Act under Article 367(1), be exercisable from time to time. In fact, in exercise of these powers the President has made

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two Orders first an original Order, and, thereafter an amending Order. If, however, in the future, it becomes necessary to make any constitutional changes in relation to the State which cannot be effected by the operation of sub-clauses (1)(b) and (1)(d) of Article 370, recourse will have to be had to Article 368 as in the case of any other change in the Constitution.

6. The steps by which and the manner in which the necessary changes should be brought about by the operation of clauses (3) and (1) of Article 370 having been set out in the concluding paragraph of the Note in the Law Ministry and I agree with the sug estions made therein. These are as follows:

(1)- The Constituent Assembly of Jammu & Kashmir should frame an interim Constitution preferably by amending their present Constitution. In this legislation they should indicate a future date from which the said Constitution will come into force.

(2)- The Constituent Assembly should pass a resolution as contemplated by the proviso to clause (3) of Article 370 recommending to the President that suitable alterations may be made in that Article so as to provide for the functions of the Government of the State under that clause being performed by the elected head of the State according to their Constitution. This resolution should indicate the same date as in (1) for giving effect to the recommendation.

(3)- On the basis of the resolution the necessary orders can be issued by the President under Article 370(3).

(4)- ..

NATIONAL ARCHIVES OF INDIA

(4)- Soon after the coming into force of the interim Constitution the existing order under Article 370(1) should be amended, particularly for the purpose of making suitable changes in the definition in Article 366(21) of our Constitution.

7. It would be desirable to use in the Explanation to be substituted the wider langiage suggested in the second alternative mentioned in the Note which is as follows: "The Government of the State means the authority for the time being recognized by the President as the authority in whom the executive power of the State of Jammu & Kashmir vests". That would have the advantage of being suitable to cover any authority in whom the executive power of the State may be vested. It has to be remembered that the present proposed changes in the Constitution of Kashmir are interim changes and the final Constitution has yet to be framed. The result of framing the Explanation in narrower language, for example, by the use in it of the expression Sadar-i-Riyasat would be that if eventually the Constitution of Kashmir has as its head a person differently named a further change in the Explanation will be needed which can be brought about only by operating Article 368.

8. The proposed alteration in Article 366(21) is as follows:-

"(21) 'Rajpramukh' means-

(a) [as at present];

(aa) in relation to the State of Jammu & Kashmir, the person who for the time being is recognized by the President as the Sadar-i-Riyasat;

(b) in relation to the State of Mysore, the person who for the time being is recognized by the President as

the Maharajaof the Maharaja of the State; and

(c) [as at present].

This is necessitated by the use of the word "Rajpramukh" in about four places in the Order already issued by the President in reference to the State. That Order can however be amended generally by making a provision that the "Rajpramukh" in the Order means and is to be understood to mean the Sadar-i-Riyasat. If such an amendment is made in the Order the only amendment needed in Article 366(21) would be the deletion of all references in it to the State of Jammu & Kashmir.

9. As action under sub-clause (3) of Article 370 can only be taken on the recommendation of the Constituent Assembly of the State such a recommendation will, first, have to be made by that Assembly. The Assembly will also have to take steps to amend the present Constitution of Kashmir so as to make the proposed elected head of the State the executive head of the State instead of the Maharaja. After this action has been taken steps can be taken towards the election of the new head. It would be best to fix a date beforehand and to which all the steps to be taken can be worked so as to complete them by that fixed date. The notification under sub-clause (3) of Article 370 contemplates the specification of a date by the President. The amended Explanation in Article 370 (1)(b) will be operative from the specified date. The proposed elected head of the State may be elected earlier but the Constituent Assembly will have to declare a date for his assuming the headship of this State which date should synchronize with

the ....

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the date specified for the operation of the changes made under Articles 370(3) and 370(1). The disappearance of the present head of the State, in whatever way it is brought about, should also be made to be effective from the same date. A synchronization in this manner will prevent the absence of a link at any point of time between India and the State under the Constitution.

New Delhi,

24th September 1952.

ATTORNEY-GENERAL OF INDIA.

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(578)

118, Koregaon Park,
POONA.
28th Oct.1952.

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My dear Sir,

I refer to the Memorandum which I submitted to you in August 1952. I wonder if you had had time to go through it as so far I have not received any communication from you with reference to it. I have not even received a formal acknowledgment.

I would not trouble you with this reminder but for the fact that Press reports indicate that a Session of the Constituent Assembly of the State has been convened on the 10th November 1952 and it is said that an amendment of Article 370 of the Constitution of India is also under contemplation.

May I request you to kindly deal with the matter at an early date ?

With kind regards,
Yours sincerely,

sd. HARI SINGH.

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(379)

No.132/52

30th October 1952.

My dear Venkatachar,

I enclose herewith in original a reminder received from His Highness the Maharaja of Kashmir about the memorandum submitted by him to the President in August last. The President would be glad if a formal acknowledgment of the memorandum as well as the reminder is sent to the Maharaja pending an examination thereof.

Yours sincerely,

Sd/- S. A. Lal

Shri C.S. Venkatachar, ICS,
Secretary, Ministry of States.

encl: RC 30/X

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Top secret

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Rashtrapati Bhavan, New Delhi,

7th November 1952.

My dear Dr. Katju,

During our conversation last evening about the proposed constitutional changes in the State of Jammu and Kashmir, I referred, among other things, to the form of the Oath to be taken by the Sadar-i-Riyasat before entering upon his office. I understood you to say that this question was decided before I raised it in paragraph 13 of the note which I sent to the Prime Minister with my letter of the 6th September 1952, a copy of which was also sent to you the same day. I am still unable to follow how this particular question could have been decided before my letter of the 6th September was written. So far as I can see, there was no reference to the form of the Oath either in the statement made by the Prime Minister in the House of the People on the 24th July 1952 or in the statement made by the Prime Minister of Jammu and Kashmir on the 21st August 1952. The omission of any reference to the Constitution of India from the form of the Oath struck me as very strange, and I therefore expressly raised the question whether the Sadar-i-Riyasat should not be required to swear allegiance to the Constitution of India in my note to the Prime Minister. Even now I do not know whether the implication of this omission has since been considered. There is every likelihood of the question being publicly agitated once the form of the Oath is widely known, and I think it is necessary to examine it carefully before it is too late. I myself attach considerable importance to the inclusion of an express reference to the Constitution of India in the Oath. After all, it cannot be denied that the territory of Jammu and Kashmir having been specifically included in the territory of India, the Constitution of India is supreme and that the Constitution that may be framed by the Constituent Assembly of that State would operate

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only because the Constitution of India expressly so provides in Article 370. It is theoretically competent to Parliament, if it so thinks fit, to amend the Constitution under Article 368 by either repealing Article 370 or by otherwise modifying it. It is immaterial that in practice the chances of Parliament so doing are remote. The point is that Parliament is competent to do so, and this, in my view, fully establishes the supremacy of the Constitution of India over the constitution of the State. It is therefore of the highest importance that the constitutional head of the State should be required to swear allegiance to the Constitution of India. A mere allegiance by implication will not do.

2. I have, in my previous correspondence as well as in my conversations, drawn pointed attention to certain other matters which require careful consideration before giving effect to the present proposal of substituting an elected head of the State for the hereditary Ruler. In fact, the more I consider the matter the more I am convinced of the necessity of adhering to the intention expressed by Government when the Constituent Assembly was debating the provision of the Constitution which is now embodied in Article 370, namely that the Constituent Assembly of the State should come to a decision on all the matters relating to the State's constitution before making a recommendation to the President to abrogate or modify Article 370; for only when the complete picture emerges that we will be in a position to judge the full implications of the present proposal which merely touches the fringe of the problem. We are in effect conceding all that we could without making sure when and to what extent and in what manner the other party will implement its undertaking. If Government have come to a considered decision on these other matters, I take it that they have done so after fully considering the difficulties to which I have drawn attention.

3./

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3. Nor need I stress again the desirability of keeping in view the moral aspect of the matter to which I invited the attention of the Prime Minister in my letters to him of the 20th June 1952 and 22nd July 1952. As I there said, it should not be difficult to settle the matter with the Maharaja and thus honour our original agreement with him before giving effect to the proposal now under consideration. P. 119 939

Yours sincerely,
sd. RAJENDRA PRASAD.

P.S.
I am sending copies of this letter to the Prime Minister and Shri Gopalaswami Ayyanger.

Dr. Kailas Nath Katju,
Minister for States.

Issued.
8-11-52

Copies Sent to:—
1) The Prime Minister
2) Shri Gopalaswami Ayyangar

with President's Compliments.

8-11-52.

NATIONAL ARCHIVES OF INDIA

सत्यमेव जयते

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TOP SECRET

Copy made for R.P 16/8/62

New Delhi,
November 7, 1952.

My dear Mr. President,

P.96/A

Thank you for your letter of the 7th November addressed to Dr. Katju in regard to the proposed constitutional changes in the State of Jammu and Kashmir.

The Minister of States will no doubt write to you on this subject. But as you have been good enough to send me a copy of your letter to him, I am briefly indicating my own views.

The question of the constitutional changes has been considered by us repeatedly during the last many months. We have discussed it in the Cabinet Committee, with representatives of the Kashmir Government and with our law officers. We have of course given the fullest consideration to what you have written on this subject.

This matter was, in the circumstances, a very difficult one to handle. It was not merely a constitutional or legal issue but a political one with far-reaching consequences. The States Minister and I had the great advantage of consultations with Shri Gopalaswami Ayyangar, who has been intimately connected with Kashmir affairs not only throughout these last five difficult years but also during earlier periods. His knowledge of all the principal actors in the drama of Kashmir is very considerable. He has known and served under the Maharaja and has seen the Yuvaraj of Kashmir grow up. He has known the present Prime Minister of Kashmir and his colleagues also very well. He has conducted negotiations in regard to Kashmir in the Security Council as well as elsewhere.

After very prolonged and difficult talks and negotiations with the Kashmir Government, we arrived at certain decisions and an agreement. This agreement did not embody everything that we would have liked to have, but we felt that it was a fair and proper agreement in all the circumstances and safeguarded our interests adequately without doing any injury to our Constitution. Finally a detailed time table was drawn up for the steps to be taken by the President, the Government of India and the Kashmir Government. We are endeavouring to proceed in accordance with this time table. Any change or upsetting of this time table is likely to have grave consequences.

P.96 ante

You refer in your letter to Dr. Katju to the Oath. I would undoubtedly have liked to have the Oath in a somewhat different form. But I do not quite attach the importance to this matter that you do.

Regarding your second point, I can only repeat what I have said above that we have considered every aspect of this question and come to certain conclusions which have to be given effect to now. We cannot reopen six months' discussions.

In regard to the third point, that is the moral aspect of this matter, I regret I do not agree with you.

p.t.o..

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It would be more correct to say that I consider the Maharaja's claim as highly immoral and objectionable. If I may mention here what I stated to my colleagues, I agreed to the proposed payments of a privy purse to the Maharaja with considerable reluctance because I did not think that he deserved it from any moral or equitable point of view. The Maharaja sent you a long memorandum. A copy of this was sent to me also. This memorandum was not only full of wrong statements and distorted facts but was also offensive and highly objectionable. Many references were made in it to me which were very unbecoming for the Maharaja. I did not pay too much attention to them as I considered him not in his right senses. I have no doubt in my mind that the troubles with which Kashmir and the people of Kashmir have been afflicted are largely due to the Maharaja. For him to claim as of right all kinds of privileges and payments seems to me, in these circumstances, to be quite extraordinary. I agreed to certain payments only in deference to my colleagues' views. We are supposed to be guardians of the public purse and I feel that we would be betraying our charge if we acceded to the Maharaja's claims.

Yours sincerely,

Jawaharlal Nehru

Dr. Rajendra Prasad,
President,
Rashtrapati Bhavan,
New Delhi.

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MINISTER FOR STATES,
INDIA.

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TOP SECRET

D.O.No.30/75/52-HM.

New Delhi,
11th November 1952.

My dear Rajen Babu,

This is with reference to your letter of the 7th instant regarding Kashmir. I understand that the Prime Minister has already communicated to you broadly his views in the matter.

You have referred to three important questions.

The first one is as to the procedure. It would, of course have been more appropriate if the J & K Constituent Assembly had drawn up and finalised the entire ~~procedure~~ constitution. But, owing to a variety of reasons, the J&K Government thought that this would take some time and they were anxious not to hold up the question of the Headship of the State. So far as that matter was concerned, in his policy-making speech which was delivered ~~by~~ in the J&K Constituent Assembly by Shaikh Abdullah last year, with the approval of the Government of India, it was distinctly stated that it was proposed to have an elected Head in the State. This question, whether there was to be, so to say, piecemeal enforcement of the Constitution or whether there should be a complete picture drawn up, was fully discussed by us with the representatives of the J&K Government, in the lengthy talks which preceded the statement made by the Prime Minister in Parliament. The goal in view, of course, is a complete absorption of the J&K State like any other 'B' class State in the Indian Union. Partial accession which was offered initially to every State in India seems a rather curious constitutional anomaly in these days when our own Constitution has been finalised and all States excepting J&K have resolved to merge themselves entirely into the Indian Union. Owing to many circumstances, that partial accession still continues. During those talks, we carefully examined whether the list of subjects of accession could not be enlarged in many respects, the extension of the jurisdiction of the Supreme Court being one of the main heads. The Kashmir Delegation, speaking for themselves, agreed to many of the suggestions made by us, but

but naturally said that they would have to obtain the consent of the Constituent Assembly about it. They went back to Srinagar, and then arose further examination of the exact scope of Article 370 of the Constitution. The Attorney-General was consulted; he gave his opinion. That opinion was ~~xxxxxxxxxxxxxx~~ commented upon by the Kashmir Government and ultimately ~~that~~ it was only recently that the Attorney-General was able to advise us finally. This examination showed that there was no legal or constitutional bar to the making of a change about the elected Head of the State leaving over other questions about the enlargement of topics of accession to a later date. The present arrangement is, as soon as this question of elected Head of the State is put out of the way, the Constituent Assembly or its Drafting Committee will at once proceed to consider other matters and the Constitution will be drafted and finalised. It may be finalised entirely or it may be finalised in stages.

It seems to me that, having once agreed to the establishment of responsible Government in J&K, and having also agreed to the establishment of the Constituent Assembly, this question of the Headship of the State loses much of its importance. For instance, even in India, there is really, for all practical purposes, no difference whatsoever in a Governor of a Part 'A' State and in the Rajpramukh of a Part 'B' State. For constitutional purposes, both occupy the same position. In some States, like Hyderabad and Mysore, which were big units, the Rajpramukhship and the Rulership centred in the 'B' State. In Northern India where the number is large, the Rajpramukhship is quite separate from the Rulership and a Ruler is entitled to such rights and privileges as may be conferred upon him by the Covenant or by the Government guarantee. So far as those privileges are concerned, speaking broadly, Maharaja Hari Singh of Kashmir is not being deprived; the Privy Purse continues to the tune of 10 lakhs of rupees a year and

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and so do the other privileges which I ventured to place before you when I had a talk with you. The question is more or less of a sentimental nature and of psychological importance. The conditions in Kashmir are rather peculiar. The Kashmir Government, with the concurrence of the Government of India, have long been of the opinion that the dynastic connection with the responsible Government is of little use to the people and may in the context of present-day world situation, even be detrimental.

The Government of India have after the fullest consideration of every aspect of the case, come to the conclusion that continuation of the state of suspense would be doing no good to anybody and the sooner it is brought to an end the better. It is with this view that a time-table has been agreed upon and in accordance with the opinion of the Attorney-General, the J&K Constitution is being changed that the Constituent Assembly will choose to elect the Head of the State, and the Yuvraj having agreed to accept the office, his name will be proposed, and he will in all likelihood, be elected unanimously. It is proposed that he should be installed into office on the 17th instant. The arrangements have proceeded to such a length that it is not possible now to modify them in any way.

So far as Maharaja Hari Singh is concerned, I have communicated to him in a letter the decisions that have been taken and we have accommodated him to the largest extent possible.

As to the form of the oath, with great respect to your opinion upon it, I suggest that nothing very important turns upon it. As I have said, partial accession is in itself an anomaly. It is true that in our Indian Constitution, J&K is enumerated among the 'B' class States; but, at the same time, it is clearly stated that only with the exception of two or three articles in the whole, no other part of the

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the Constitution will be applicable to it. That would mean that in point of law, leaving aside the subjects on which Kashmir has acceded to the Indian Union, as to the rest it is totally independent. If this is the correct position, then, both in fact and in theory, the elected Head of the State can only, strictly speaking, swear allegiance to the Constitution of ~~its~~ State, and in so far as that Constitution implies a redognition of the political sovereignty of the Indian Union, he owes allegiance to the Indian Union too. The Indian Union can only come into the picture in its entirety when the J&K State becomes merged in the Indian Union completely. The present oath of allegiance does not involve any contradiction in the duties of the elected Head. The Kashmir Constitution, as it stands at present, indicates unity of political interests and political subordination in some respects to India. If, at any later date, the Kashmir Government embarks upon a course of action which is in any way antagonistic to India and to the Indian Constitution, it would be open to the elected Head, if he so decides, to resign his office rather than prove himself untrue to his oath.

As to the moral aspect of the whole case, the Prime Minister has dealt with it in his letter to you. I notice that in one of his letters to Maharaja Hari Singh sent on the 9th June 1949, Sardar Patel definitely stated that it would be open to the J&K Constituent Assembly to frame any constitution which they like for their people. We in the Government of India cannot possibly suggest that this Kashmir Constituent Assembly is not representative of the people. It has been validly elected.

In so far as there may be any moral obligation on the part of the Government of India to preserve the rights and

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MINISTER FOR STATES,
INDIA.

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and privileges of the Ruler of J&K in keeping with the Rulers of other States, I have already said that a decision to that effect has been taken.

I imagine that we on our side will have to finalise the whole position when the fact of the election of the "Sadar-i-Riyasat" is communicated to us formally by the J&K Government.

I am enclosing herewith a copy of a note which I have sent today to Maharaja Hari Singh communicating the points on which we have agreed to accede to his requests.

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p. 106 infra

Yours sincerely,

Dr. Rajendra Prasad,
President,
Camp: Allahabad.

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105-A

OFFICE OF THE SECRETARY TO THE PRESIDENT.

CUTTINGS FROM NEWSPAPERS.

1. Name of the paper. The Hindustan Times

2. Published at. New Delhi

3. Dated. 26. 9. 52

Marked by ~~D.P.S.P.~~ Office.

PLEBISCITE CONDITIONS IMPOSSIBLE

Delhi Reaction To Graham's Report

OFFICIAL TEXT AWAITED

[By Our Special Representative]

NEW DELHI, Thursday.

DR GRAHAM'S report to the Security Council, frankly admitting his failure to effect an agreement between India and Pakistan on the demilitarization of Kashmir, came as no surprise to political circles here.

No official comment is, however, available, as the External Affairs Ministry has not yet received the full text of the 5,000-word report which Dr Graham has submitted on his prolonged discussions in New York and Geneva. It is expected to be available in Delhi before the Prime Minister returns from tour.

Dr Graham has, as expected, suggested no definite action and contented himself with merely stating the differences between India and Pakistan. It is significant, however, that he describes them as "basic" differences "derived from their differing conception of their status in Kashmir."

A full picture of the negotiations on the demilitarization question will be available only when the text of the report is published, but it is clear that so far as the main issues are concerned, the differences are so wide they afford little possibility of holding a plebiscite on agreed conditions. If such agreed conditions are not possible, the only alternative is to consider other ways than a plebiscite for settling the issue. Dr Graham was bound down, by his terms of reference, to the demilitarization question, but if there are basic differences in the way of settling this question, the Security Council will have to go back to the basic problem—frankly recognizing that there is no possibility of arriving at agreed conditions for holding a plebiscite. It is not possible to go on indefinitely with negotiations for holding a plebiscite with agreed conditions when there is a basic difference, as Dr Graham points out, regarding status and commitments.

The basic fact which the Security Council has now to face is that Pakistan cannot put itself in the same position as India in dealing with Kashmir. Pakistan stands as an aggressor under international law, as admitted in the Dixon report, and has to be treated as such. The Government of India have made it clear that they have a constitutional responsibility for the internal and external security of Kashmir and must, therefore, be free to locate such forces as are necessary for the State's security. At the same time, they have also made it clear that they cannot agree to the stationing of any military formations by Pakistan even on the other side of the cease-fire line as it has been agreed that Pakistan forces have no right to be there and must withdraw completely. Under the U.N. resolution itself, all Pakistan forces have to withdraw from this area, and until such time as the plebiscite takes place, local authorities should be set up in this area under the surveillance of the U.N. with such civil armed forces as may be necessary for maintaining internal order. There is no question, therefore, of allowing any "Azad Kashmir forces" or any "Gilgit and Northern Scouts," (which are all part of the Pakistan Army), to remain in this area. According to present information, Pakistan has a trained force of nearly 30,000 on the other side of the cease-fire line under its army's operational control.

BASIC FACT

Though the differences between the two sides as regards the strength of the forces to be stationed may to some extent have been narrowed down, the fundamental fact remains that Pakistan claims the right to retain military formations on the other side of the cease-fire line, while India insists that Pakistan has no right to be in that area and must completely withdraw before they can proceed to the plebiscite stage. Pakistan also does not seem to be prepared to agree that the Kashmir Government have an overall responsibility for the whole area and that the Government of India are also responsible for its internal and external security and have to take all steps which they consider necessary for fulfilling this responsibility.

Dr Graham has frankly recognized that the present positions of the two Governments are derived from their differing conception of their status in the State. So long, therefore, as there is this differing conception, there will be no way out of this deadlock. The time has, therefore, come for the Security Council to face the basic issue of Pakistan's aggression. It has to be made clear that Pakistan is there as an aggressor and must be treated as an aggressor.

It is not clear yet what course the Security Council will follow—whether it will give further time to Dr Graham to proceed with his negotiations or give his extended terms of reference for dealing with the problem in a different way. Whatever it is, the Security Council can no longer burke the basic issue of Pakistan's position as an aggressor.

Simla 1952

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OFFICE OF THE SECRETARY TO THE PRESIDENT.

CUTTINGS FROM NEWSPAPERS.

105-B

1. Name of the paper. The Statesman

2. Published at. New Delhi

3. Dated. 26. 9. 52

DIFFERENCES OVER DEMILITARIZATION

DR. GRAHAM'S REPORT ON KASHMIR

Dr Graham on Wednesday reported to the Security Council that no agreement had been reached between India and Pakistan on the demilitarization of Kashmir. (A summary of his report appeared yesterday).

The U.N. Representative said:

(1) "After two weeks of discussions it was evident that agreement could not be reached at this conference on any of the revised drafts presented for consideration. The positions of the two Governments on the main issues were such that the contemplated examination of the resolutions of August 13, 1948, and January 5, 1949, resolution by resolution and paragraph by paragraph, did not appear to me a useful further line of approach.

(2) "The possibility envisaged by the U.N. Representative in his statement of July 16, 1952, of discussion of any further suggestions that the representatives of the two Governments might wish to make did not arise during the conference and no alternative suggestions were made.

(3) "The present positions of the two Governments are derived from their differing conception of their status in the State. This more than anything else is the origin of their different interpretations with regard to their commitments.

(4) "Growing out of the basic difference in the interpretation of the two Governments regarding their status and commitments under the Kashmir Commission resolutions of August 13, 1948, and January 5, 1949, is their difference over the character and number of forces to be left on each side of the cease-fire line at the end of the period of demilitarization.

(5) "For the solution of this problem the U.N. Representative after submitting brackets of figures within which discussion might proceed, later suggested to the parties in the Geneva conference definite figures.

"Alternatively he suggested criteria for establishing definite figures on the basis of the functions and requirements on each side of the ceast-fire line."

Dr Graham recalled that he had made three reports to the Security Council "which have narrowed the problem down to what appears to be the prerequisite for an agreement on a plan of demilitarization, namely, agreement on the number and character of forces to remain on each side of the cease-fire line at the end of demilitarization".

The last part of Dr Graham's conclusions stated:

"The Representative holds the view that for reaching an agreement on a plan of demilitarization it is necessary either:

(a) To establish the character and number of forces to be left on each side of the cease-fire line at the end of the period of demilitarization; or

(b) To declare that the forces to remain on each side of the cease-fire line at the end of the period of demilitarization should be determined in accordance with the requirements of each side, and, accordingly, principles or criteria should be established which would serve as guidance for the civil and military representatives of the Governments of India and Pakistan in the meeting contemplated in the provisional clause of the revised proposals."

At the Geneva conference, which lasted from August 26 to September 10, Dr Graham presented these proposals for a settlement:

ON THE PAKISTAN SIDE: Withdrawal of tribesmen and Pakistan nationals not normally resident in Kashmir and withdrawal of Pakistan troops. Large-scale disbandment and disarmament of the "Azad Kashmir" forces. At the end of the period of demilitarization, there shall be an armed force ranging from 3,000 to 6,000. The remaining "Azad Kashmir" forces to be taken out of the control of the Pakistan High Command and officered by neutral and local officers under the surveillance of the U.N.

ON THE INDIAN SIDE: The bulk of Indian forces to be withdrawn from the State. Further withdrawals to bring the Indian army forces within a range of 12,000 to 18,000, these figures to include the State armed forces.

The Indian position as stated at the Geneva conference fell under the following main headings:

(1) "The disposal of Indian and State armed forces on our side has to be with due regard to security which in its connotation has a wider significance than law and order.

(2) "The Government of India are constitutionally responsible for the defence of the Jammu and Kashmir State which includes aid to the civil power.

(3) "Having regard to these commitments of internal and external security, the responsibilities under the cease-fire agreement and the fact that Pakistan would be free to locate its forces as it likes within its own borders, which for some length are common with the borders of the Jammu and Kashmir State, and for a still greater length within practically striking distance of the cease-fire line and important areas of the Jammu and Kashmir State, the Government of India consider that a minimum force of 28,000 is required".

Nevertheless, the Indian Government stated it was prepared "as a further gesture towards a settlement", to reduce this figure to the "absolute minimum" of 21,000 providing the "Azad Kashmir" forces were completely disbanded and disarmed.

It added: "The Government of India will in no circumstances be prepared to include the militia in these calculations. The militia is a special armed police force under the administration of the Jammu and Kashmir Government for its normal law and order responsibilities and is only temporarily, for the period of emergency, under the operational control of the Indian Army".

INDIA'S POSITION

The position of the Indian Government regarding forces on the Pakistan side of the cease-fire line is this:

(A) The "Azad Kashmir" forces and the Gilgit and Northern Scouts have been newly raised and greatly augmented during the period of Pakistan's aggression. This has been done in violation of the Commission's assurance that Pakistan would not be allowed to consolidate its position to the disadvantage of the State.

"They are administratively or/and operationally under the control and direction of the Pakistan High Command. For these reasons they are indistinguishable from the Pakistan regular troops and must be disbanded and disarmed.

"This is necessary not only to honour the assurances given but also to restore peaceful and normal conditions in and to facilitate the return of the refugees to this area.

(b) "The administration of this area would (under the resolution of August 13, 1948) vest in local authorities to be established or recognized for the purpose. To those local authorities under the same resolution only local administrative functions have been assigned.

"In the very nature of things such authorities can be in charge only of local law and order, whether in the area or with reference to the cease-fire line. To give them any armed force equivalent to troops would not be consistent either with their status or with their functions and would be a violation of the sovereignty of the Union of India and the Jammu and Kashmir State. In the very nature of things, therefore, these local authorities can be entrusted only with a civil armed force.

(c) "The Government of India consider that having regard to all the circumstances of this case, a civil armed force of 4,000 would be on the liberal side considering the pre-aggression strength of similar forces policing this area.

NORTHERN AREAS

"However, they would be prepared to consider an appropriate increase to provide for the needs of the northern areas, or should the U.N. Representative, under whose surveillance these forces would be operating, make out a case that this strength is inadequate.

"Having regard to the functions these forces are to discharge and the conditions of a fair and impartial plebiscite, these forces should consist of an equal proportion of 'Azad' Kashmir and other elements. The Government of India would be prepared to agree to a suitable adjustment of the armed and unarmed portion of this force. The civil armed force should be under neutral and local officers".

Regarding the induction of a Plebiscite Administrator, the Indian Government agreed that this should be done on the last day of demilitarization providing this was carried out according to plan.

On the principles governing the remainder of forces on either side of the cease-fire line, the Indian Government stated: "The Government of India cannot accept any equation of their responsibilities with the local authorities on the Pakistan side of the cease-fire line or agree to anything more than a local character to the maintenance of public order in that area by the local authorities.

"They would observe that constitutionally the defence of the entire State of Jammu and Kashmir is the concern of the Government of India, and they alone are entitled to maintain a military armed force for the purpose."

In the statement of Pakistan's case, presented at the Geneva conference it was stated: "Pakistan has been equally ready to carry out the demilitarization programme as envisaged in the Kashmir Commission resolutions and as contemplated" in Dr Graham's proposal of July 16, 1952. It would appear that the Government of India was prepared to accept neither.

"The main reason given for India's refusal to progress with demilitarization on the lines laid down in the Kashmir Commission resolutions, as suggested by Dr Graham, has been India's alleged fears for the security of the State.

"It might be pointed out that the agreed Kashmir Commission resolutions make adequate provision for the security of the State at all stages. India's alleged fears for the security of the State are unfounded, but, assuming for the sake of argument that there is some cause for India's concern, the same considerations exist in respect of 'Azad' Kashmir.

"The security of both areas has to be ensured, and neither side should be able to steal a march against the other, but the overriding consideration is that neither India nor Pakistan should be placed in a position to intimidate the population and influence their vote in the plebiscite".

Regarding the forces to remain after demilitarization, the Pakistan Government said it considered that these should be "only the minimum forces necessary for the maintenance of law and order and the preservation of the cease-fire line".

It pointed out that the Kashmir Commission resolutions contemplated the retention of some armed forces on both sides of the line, and added: "The character of the forces must, obviously, be the same on both sides of the cease-fire line".

PAKISTAN'S VIEWS

Dealing with the proposals made by Dr Graham on September 2, 1952, the Pakistan Government said: "Pakistan considers that the U.N. Representative's proposal that at the end of the demilitarization programme there should remain an armed force of 18,000 (exclusive of 6,000 militia) on the Indian side, and an armed force of 6,000 (exclusive of 3,500 Scouts) on the Pakistan side, leaves too many soldiers in the State.

"Before partition, the Maharaja's Government managed with less than a quarter of the forces suggested by the U.N. Representative (8,000 as against 33,500).

"The ratio of forces proposed is also unfair to Pakistan, considering that the ratio on the date of cease-fire was five to four in India's favour, according to the Government of Pakistan and seven to five according to General Devers, the Military Adviser to the U.N. Representative.

"Subject to the above observations, the Pakistan delegation was prepared to accept the U.N. Representative's truce proposals of September 2."

The Pakistan statement said that "as a big concession to the Indian point of view it was prepared to accept the proposal that the Plebiscite Administrator should be appointed not later than the last day of demilitarization".

GRAHAM'S REVISED PROPOSALS

On September 4, 1952, Dr Graham had proposed a settlement on the basis of his original 12 points with the following main difference:

In place of stating definite figures for the forces to be maintained after demilitarization, the situation would be that at the end of the period of demilitarization there should be on the Pakistan side "the minimum number of forces that are required for the maintenance of law and order, and of the cease-fire agreement, with due regard to the freedom of the plebiscite".

On the Indian side, Dr Graham proposed that there should remain "the minimum number of Indian forces and State armed forces that are required for the maintenance of law and order and of the cease-fire agreement, with due regard to the security of the State and the freedom of the plebiscite".

The Indian Government stated at the conference that it considered these proposals to have been "conceived in the right spirit having regard to the two Kashmir Commission resolutions".

It added: "As a basis for the evolution of a suitable definition of functions of forces on both sides of the cease-fire line, they contained the germs of a settlement, but despite several efforts to evolve a suitable draft in terms of the language used in the Commission's resolutions, no understanding could be reached with the Pakistan Government.

"Since the evolution of such principles is basic to the question of the character and quantum of forces, the Government of India would point out that while the Commission's resolutions acknowledge their responsibility in this respect in specific broad terms, the use of the term local authorities, the provision for the surveillance of the U.N. Commission and the fact that these local authorities have to carry on the mere administration of this area, leave no doubt whatsoever that their law and order responsibilities are of a purely local character

The Pakistan Government asked for the deletion from Dr Graham's text dealing with the Pakistan side of the terms "with due regard to the freedom of the plebiscite", and the deletion on the Indian side of the terms "with due regard to the security of the State and the freedom of the plebiscite"

The object of these deletions, the Pakistan Government said, "was to avoid the recurrence in the military sub-committee of the political controversies which had held up progress in the main conference itself".

"If this proposal had been accepted Pakistan would not have insisted on further reduction of forces under the January 5, 1949 resolution and would have been satisfied with the disposition of all remaining forces by the U.N. Representative and the Plebiscite Administrator, in consultation with the respective authorities, and with due regard to the security of the State and the freedom of the plebiscite."

Subject to these observations and some drafting changes, the Pakistan Government was prepared to accept Dr Graham's proposals of September 4.

India was represented at the Geneva talks by Mr Gopalaswami Ayyangar, Minister for Defence. Mr D. P Dhar Deputy Home Minister in the Government of Jammu and Kashmir, and Maj-Gen K. S. Thimayya assisted him.

The Pakistan delegation was headed by Sir Zafrullah Khan, Minister for Foreign Affairs, assisted by Mr M. Ayub as Secretary-General and Maj-Gen K. M. Sheik as senior military adviser.—PTI-Reuter.

POINTS AGREED TO

(1) His Highness' designation will be

Lieutenant-General His Highness Maharaja
Sir Hari Singh Indar Mahindar Bahadur,
GCSI, GCIE, GCVO.

(2) His Highness will be exempted as hithertofore from the provisions of the Indian Arms Act.

(3) Foreign exchange facilities will be given to His Highness on such scale as may be considered suitable by the Govt. of India for travels abroad, This will be subject to the exigencies of the foreign exchange position.

(4) His Highness's motorcars will bear red number plates as hithertofore.

(5) His Highness's privy Purse will be Rs. 10 lakhs per annum and will be paid directly as follows:

(i) Rs. 5 lakhs to His Highness,
(ii) Rs. 1 lakh to Her Highness Maharani Tara Devi, and
(iii) Rs. 4 lakhs to Yuvraj Karan Singh.

After His Highness's demise the 5 lakhs allotted to him will pass on to the Yuvraj. Similarly Rs. 1 lakhs allotted to Her Highness the Maharani will pass on to the Yuvraj on her demise.

(6) His Highness will have the use of the Kashmir House situated on the Nepean Road, Bombay, in the same manner as at present.

(7) Approval to His Highness's private properties mentioned in the attached schedule has already been communicated in Sardar Patel's letter of 9th June 1949. The Govt.of India will use their good offices in securing an agreement of the Kashmir Government to a division of these properties on the lines proposed.

V/ pages 107-108 infra

(8) The legal position in regard to exemption from prosecutions and suits is under examination. Subject to this the same protection will be given to His Highness as is enjoyed by Rulers of other former Indian States.

(9) His Highness will be exempted from the payment of sea customs duty as at present.

.....

POINTS ON WHICH THE GOVERNMENT OF INDIA ARE UNABLE TO MEET HIS HIGHNESS'S WISHES.

.....

(1) His Highness's claim in regard to the arrears of Civil List.

(2) Pensions accrued up to 20th July 1949 and gratuities due from the Govt. of Jammu and Kashmir to persons employed in His Highness's household. (It is stated that this has been agreed by the Jammu and Kashmir Government. The Government of India cannot do anything about it.)

(3) His Highness's claim to send inland telegrams free of charge.

NATIONAL ARCHIVES OF INDIA

Private properties of H.H. the Maharaja of Jammu & Kashmir.

JAMMU.

Buildings.

1. Amar Mahal
2. Hari Nivas.
3. Ranbir Mahal.
4. Karan Nivas.

) and connected buildings.

5. Staff Houses Nos. 1-2-A, 2B-3A, ~~3B-3A~~, 3B-4A, 4B-5-A-5B
6. Dairy & Stud Buildings (Nagbani)
7. House Site (Dhounthli Bazar)
8. House Site (Chowk Salathian)

Lands & Gardens.

1. Hazuri Garden.
2. Rajmata's Garden (Satwari)
3. Gadigarh Garden.
4. Nagbani Farm.
5. Valley Garden & Haveli Begum area.

) and connected buildings.

SRINAGAR.

Buildings.

1. Gulab Mahal.
2. Hari Mahal.
3. Karan Mahal.
4. Chashmashai

) and connected buildings.

5. Staff houses - Cherry Grove, Fair View, Farm ~~Skar~~ House.
6. Works Department's Stores.
7. Lake Pavilion.
8. 12 Clerks Quarters (ex-Residency)

Lands and Gardens (Continued)

NATIONAL ARCHIVES OF INDIA

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Srinagar (Lands & Gardens).

1. Gulabsingh Bagh.
2. Rambirsingh Bagh.
3. Pratapsingh Bagh.
4. Harisingh Bagh.
5. Amarsingh Bagh.
6. Ramsingh Bagh.
7. Karansingh Bagh.
8. Maharaja Bagh.

} and connected buildings.

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सत्यमेव जयते

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GOVERNMENT OF INDIA
MINISTRY OF STATES
NEW DELHI

November 13, 1952.

My dear Lal,

Sub: Kashmir Affairs.

•••

I attach a copy of the following papers on the above subject:-

(i) A summary for the Cabinet

(ii) A draft summary for the President.

These papers will give a precise idea of the action which we have to take.

2. As regards the actual arrangements, I have just had a talk with Shahmiri, the State Constitutional Adviser. He will be coming tomorrow evening by the plane and will bring with him formal documents - the Jammu and Kashmir Constitution Amending Act, the recommendation of the Legislative Assembly to the President for the recognition of the Yuvraj as Sadar-i-Riyasat etc. I suggest that we might send a special courier to Allahabad with the final summary and other papers. Could you kindly arrange to have some one from your staff sent to Allahabad. If, on the other hand, you so wish, I could arrange for someone from my office to go.

Meanwhile you might wish to keep the President informed.

Yours sincerely,

(C.S.Venkatachar)

Shri Shavax A.Lal,
Secretary to the President.

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S U M M A R Y

Sub: Action to be taken in consequence of the decision of the Jammu and Kashmir Constituent Assembly regarding the Headship of the State.

....

On the 21st August 1952, the Constituent Assembly of the State of Jammu and Kashmir passed a Resolution on the subject of the Headship of the State. This Resolution provides as follows:-

(1) the Head of the Jammu and Kashmir State shall be the person recognised by the President of India on the recommendation of the Legislative Assembly of the State;

(2) he shall hold office during the pleasure of the President;

(3) he may by writing under his hand addressed to the President resign his office;

(4) subject to the foregoing, he shall hold office for a term of five years;

(5) the recommendation of the Legislative Assembly shall be made by election;

(6) the Head of the State shall be designated as the Sadar-i-Riyasat;

(7) the Sadar-i-Riyasat shall be entitled to such emoluments, allowances and privileges as may be prescribed by the Constitution and, pending the framing of the Constitution, to such emoluments, allowances and privileges as may be decided by the Assembly by a separate Resolution.

2. The Resolution also provides for the method of election and other matters pertaining to the election of the Sadar-i-Riyasat until these matters are provided for in the Constitution to be framed by the Constituent Assembly; for the filling of any casual vacancy in the office; and for provision by the Constituent Assembly in due course of a suitable remedy in respect of violation of the Constitution or gross misconduct by the person for the time being holding the office of Sadar-i-Riyasat.

3. The implementation of this Resolution has been discussed between the Government of India and the representatives of the Jammu and Kashmir Government. It has been decided that the date on which the Sadar-i-Riyasat will formally assume office will be the 17th November 1952. The Jammu and Kashmir Government are taking steps to amend the existing Constitution of the State providing for the Head of the State being designated as "Sadar-i-Riyasat" and not "His Highness the Maharaja" and making other consequential changes. These amendments will come into force on the 17th November 1952. The Jammu and Kashmir Government will also hold the election to the office of the Sadar-i-Riyasat and communicate the result to us.

4. It is proposed that as soon as official intimation is received that the Jammu and Kashmir Constitution Amending Bill has been passed by the Constituent Assembly a draft of a public notification under clause (3)

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NATIONAL ARCHIVES OF INDIA

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of article 370 of the Constitution amending the "Explanation" in clause (1) of that article should be submitted to the President for his approval. The draft of the notification is attached. It will also be necessary to submit to the President the draft of an Order under clause (1) of article 370 amending the Constitution (Application to Jammu and Kashmir) Order, 1950, in order to provide -

(a) that the term "Rajpramukh", wherever it occurs in the provisions of the Constitution applicable to the Jammu and Kashmir State, will mean the Sadar-i-Riyasat of the State;

(b) that, consequentially, the definition of Rajpramukh in article 366(21) will not apply to the State; and

(c) that article 386 which refers to the interim Council of Ministers of all Part B States will cease to apply to the Jammu and Kashmir State.

This Order has been drafted and a copy of the draft is attached.

5. It is expected that Yuvraj Karan Singh of Jammu and Kashmir will be elected as the Sadar-i-Riyasat and as soon as we receive intimation of his election with a submission that the President's recognition be obtained, this will be placed before the President and his pleasure ascertained.

6. The approval of Cabinet is requested to the action proposed above. The Law Ministry have concurred in this Summary and in the drafts attached. The Prime Minister and the Minister for States have seen and approved.

(C.S. Venkatachar)
S E C R E T A R Y .

No.F.1(9)-K/52.
Ministry of States,
New Delhi-2.
November 13, 1952.

The Cabinet Secretariat.

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DRAFT NOTIFICATION.

In exercise of the powers conferred by clause (3) of article 370 of the Constitution of India, the President, on the recommendation of the Constituent Assembly of the State of Jammu and Kashmir, is pleased to declare that as from the 17th day of November 1952, the said article 370 shall be operative with the modification that for the "Explanation" in clause (1) thereof the following Explanation is substituted, namely:-

"Explanation. - For the purpose of this article the Government of the State means the person for the time being recognised by the President, on the recommendation of the Legislative Assembly of the State, as the Sadar-i-Riyasat of Jammu and Kashmir, acting on the advice of the Council of Ministers of the State for the time being in office".

NATIONAL ARCHIVES OF INDIA

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DRAFT ORDER.

In exercise of the powers conferred by clause (1) of article 370 of the Constitution of India, the President, in consultation with the Government of the State of Jammu and Kashmir, is pleased to make the following Order:-

1. (1) This Order may be called the Constitution (Application to Jammu and Kashmir Second Amendment) Order, 1952.

(2) It shall come into force on the 17th day of November, 1952.

2. At the end of paragraph 3 of the Constitution (Application to Jammu and Kashmir) Order, 1950 (hereinafter referred to as "the principal Order"), there shall be added the words "and to the modification that all references in the said provisions to the Rajpramukh shall be construed as references to the Sadar-i-Riyasat of Jammu and Kashmir".

3. In the Second Schedule to the principal Order, -

(a) in the entry in the second column relating to Part XIX, after the figures "365" the words, brackets and figures "and clause (21) of article 366" shall be inserted; and

(b) in the entry in the second column relating to Part XXI, for the figures and word "376 and 378" the figures and word "376, 378 and 386" shall be substituted.

NATIONAL ARCHIVES OF INDIA

400 DRAFT

S U M M A R Y

Sub: Action to be taken in consequence of the decision of the Jammu and Kashmir Constituent Assembly regarding the Headship of the State.

On the 21st August, 1952, the Constituent Assembly of the State of Jammu and Kashmir passed a Resolution on the subject of the Headship of the State. This Resolution provides as follows:-

(1) the Head of the Jammu and Kashmir State shall be the person recognised by the President of India on the recommendation of the Legislative Assembly of the State;

(2) he shall hold office during the pleasure of the President;

(3) he may by writing under his hand addressed to the President resign his office;

(4) subject to the foregoing, he shall hold office for a term of five years;

(5) the recommendation of the Legislative Assembly shall be made by election;

(6) the Head of the State shall be designated as the Sadar-i-Riyasat;

(7) the Sadar-i-Riyasat shall be entitled to such emoluments, allowances and privileges as may be prescribed by the Constitution and, pending the framing of the Constitution, to such emoluments, allowances and privileges as may be decided by the Assembly by a separate Resolution.

2. The Resolution also provides for the method of election and other matters pertaining to the election of the Sadar-i-Riyasat until these matters are provided for in the Constitution to be framed by the Constituent Assembly; for the filling of any casual

....2

NATIONAL ARCHIVES OF INDIA

vacancy in the office, and for provision by the Constituent Assembly in due course of a suitable remedy in respect of violation of the Constitution or gross misconduct by the person for the time being holding the office of Sadar-i-Riyasat.

3. The implementation of this Resolution has been discussed between the Government of India and the representatives of the Jammu and Kashmir Government. It has been decided that the change over from the existing hereditary Head of the State to an elected Sadar-i-Riyasat will take place on Monday the 17th November 1952. The Jammu and Kashmir Constituent Assembly have passed amendments to the existing Constitution Act of the State providing for the Head of the State being designated as "Sadar-i-Riyasat" and not "His Highness the Maharaja" and making other consequential changes. These amendments will come into force on the date suggested above. It is now necessary for the President to issue a public notification to give effect to these arrangements under clause (3) of article 370 of the Constitution amending the "Explanation" in clause (1) of that article. A draft notification is attached for the President's approval with a fair copy which he may be pleased to sign if he approves.

4. It will also be necessary for the President to issue an Order under clause (1) of article 370 amending the Constitution (Application to Jammu and Kashmir) Order, 1950, in order to provide -

(a) that the term "Rajpramukh", wherever it occurs in the provisions of the Constitution applicable to the Jammu and Kashmir State, will mean the Sadar-i-Riyasat of the State;

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NATIONAL ARCHIVES OF INDIA

(b) that, consequentially, the definition of Rajpramukh in article 366(21) will not apply to the State; and

(c) that article 386 which refers to the interim Council of Ministers of all Part B States will cease to apply to the Jammu and Kashmir State.

This Order has also been drafted and a fair copy of the draft is attached for the signature of the President if he is pleased to approve it.

5. Yuvraj Karan Singh of Jammu and Kashmir has been elected as the Sadar-i-Riyasat by the Jammu and Kashmir Constituent Assembly. It is therefore submitted that the President may be pleased to recognise him as the Sadar-i-Riyasat with effect from the 17th November 1952.

6. The Cabinet has approved of the course of action suggested above.

(C.S.Venkatachar)
S E C R E T A R Y.

No.F.1(9)-K/52
Government of India
Ministry of States
New Delhi-2.
The 13th November 1952.

The Secretary to the President,
Rashtrapati Bhavan,
NEW DELHI.

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p. 109 ante

I place below:-

(1) a letter received ~~today~~ this evening from the Secretary of the States Ministry about the proposed constitutional changes in the State of Jammu and Kashmir;

pp. 110-111 ante

(2) a copy of a summary for the Cabinet;

* p. 112 ante

(3) draft notification under clause (3) of Article 370 of the Constitution modifying the "Explanation" in clause (1) of that Article by substituting "Sadar-i-Riyasat" for "Maharaja".

p. 113 ante

(4) draft Order under clause (1) of Article 370 amending the Constitution (Application to Jammu and Kashmir) Order, 1950, the amendments being consequential upon the substitution of "Sadar-i-Riyasat" for the Rajpramukh;

* flag 'Z'
p. 117 ante

O p. 114 ante

(5) draft of a summary that will be submitted to the President tomorrow after the Cabinet has approved the proposal.

2. The Cabinet is expected to approve the proposal at its meeting tomorrow and intimation about the election of Yuvraj Karan Singh as Sadar-i-Riyasat is also expected to be ~~completed~~ received tomorrow. These papers have been sent by the States Ministry by way of advance intimation. The States Ministry will despatch a special courier tomorrow evening to the President with the formal proposal and fair copies of the notification under clause (3) of Article 370 and the Order under clause (1) of that Article for the President's signature. The President's approval will at the same time be sought to the recognition of Yuvraj Karan Singh as the Sadar-i-Riyasat with effect from the 17th November 1952.

3. Although nothing has been said in the Summary for the Cabinet or in the draft Summary to the President about the treatment to be accorded to the present Maharaja,

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Maharaja Hari Singh, I have made enquiries in this connection from the States Ministry and gather that a letter has been sent to Maharaja Hari Singh intimating the acceptance by Government of the following arrangement:-

(i) A privy purse of Rs.10 lakhs will be paid to the Maharaja.

(ii) The Maharaja's titles will continue to be recognised.

(iii) The Maharaja will be given exemption under the Arms Act.

(iv) The Maharaja will be allowed the use of the Kashmir House.

(v) The Maharaja has been informed during Sardar Patel's time that his private property has ~~always~~ been recognised, and nothing more remains to be done in this respect.

(vi) The Maharaja will enjoy exemption from Indian customs duties.

Government, however, are not able to give any guarantee about the arrears of privy purse (amounting to about Rs.35 lakhs) claimed by him. I understand further that Maharaja Hari Singh will be asked to come to Delhi to finalise the matter.

S. N. Lal

13.11.1952

President.

Put up with the file when the papers are received.

R. Prasad
14.11.52

NATIONAL ARCHIVES OF INDIA

(405)

GOVERNMENT OF INDIA
MINISTRY OF STATES

S U M M A R Y

Sub:- Action to be taken in consequence of the decision of the Jammu and Kashmir Constituent Assembly regarding the Headship of the State.

On the 21st August, 1952, the Constituent Assembly of the State of Jammu and Kashmir passed a Resolution on the subject of the Headship of the State. This Resolution provides as follows :-

(1) the Head of the Jammu and Kashmir State shall be the person recognised by the President of India on the recommendation of the Legislative Assembly of the State;

(2) he shall hold office during the pleasure of the President;

(3) he may by writing under his hand addressed to the President resign his office;

(4) subject to the foregoing, he shall hold office for a term of five years;

(5) the recommendation of the Legislative Assembly shall be made by election;

(6) the Head of the State shall be designated as the Sadar-i-Riyasat;

(7) the Sadar-i-Riyasat shall be entitled to such emoluments, allowances and privileges as may be prescribed by the Constitution and, pending the framing of the Constitution, to such emoluments, allowances and privileges as may be decided by the Assembly by a separate Resolution.

2. The Resolution also provides for the method of election and other matters pertaining to the election of the Sadar-i-Riyasat until these matters are provided for in the Constitution to be framed by the Constituent

2/.....

NATIONAL ARCHIVES OF INDIA

Assembly; for the filling of any casual vacancy in the office, and for provision by the Constituent Assembly in due course of a suitable remedy in respect of violation of the Constitution or gross misconduct by the person for the time being holding the office of Sadar-i-Riyasat.

3. The implementation of this Resolution has been discussed between the Government of India and the representatives of the Jammu and Kashmir Government. It has been decided that the change over from the existing hereditary Head of the State to an elected Sadar-i-Riyasat will take place on Monday the 17th November 1952. The Jammu and Kashmir Constituent Assembly have passed amendments to the existing Constitution Act of the State providing for the Head of the State being designated as "Sadar-i-Riyasat" and not "His Highness the Maharaja" and making other consequential changes. These amendments will come into force on the date suggested above. It is now necessary for the President to issue a public notification to give effect to these arrangements under clause (3) of article 370 of the Constitution amending the "Explanation" in clause (1) of that article. A draft notification is attached for the President's approval with a fair copy which he may be pleased to sign if he approves.

4. It will also be necessary for the President to issue an Order under clause (1) of article 370 amending the Constitution (Application to Jammu and Kashmir) Order, 1950, in order to provide -

(a) that the term "Rajpramukh", wherever it occurs in the provisions of the Constitution applicable to the Jammu and Kashmir State, will mean the Sadar-i-Riyasat of the State;

3/.....

NATIONAL ARCHIVES OF INDIA

(b) that, consequentially, the definition of Rajpramukh in article 366(21) will not apply to the State; and

(c) that article 386 which refers to the interim Council of Ministers of all Part B States will cease to apply to the Jammu and Kashmir State.

This Order has also been drafted and a fair copy of the draft is attached for the signature of the President if he is pleased to approve it.

5. Yuvraj Karan Singh of Jammu and Kashmir has been elected as the Sadar-i-Riyasat by the Jammu and Kashmir Constituent Assembly. It is therefore submitted that the President may be pleased to recognise him as the Sadar-i-Riyasat with effect from the 17th November 1952.

6. The Cabinet has approved of the course of action suggested above.

Sd.
(C.S. Venkatachar)
S E C R E T A R Y.

The Secretary to the President.

The New Delhi(2), Nov.'52.

Yuvraj Karan Singh is recognised as the Sadar-i-Riyasat of Jammu & Kashmir with effect from 17th Nov, 1952.

Draft notification under Art 370 cl 3 of the Constitution is approved and the notification signed.

Order under cl (1) of Art 370 amending the Constitution (application to Jammu & Kashmir) order 1950 signed

15.11.52

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REGISTERED No. D 221

The Gazette of India

EXTRAORDINARY

PART II—Section 3

PUBLISHED BY AUTHORITY

No. 152] NEW DELHI, SATURDAY, NOVEMBER 15, 1952

MINISTRY OF LAW

NOTIFICATIONS

New Delhi, the 15th November, 1952

S.R.O. 1903.—The following Order made by the President is published for general information:—

C.O. 43

THE CONSTITUTION (APPLICATION TO JAMMU AND KASHMIR) SECOND AMENDMENT ORDER, 1952

In exercise of the powers conferred by clause (1) of article 370 of the Constitution of India, the President, in consultation with the Government of the State of Jammu and Kashmir, is pleased to make the following Order:—

1. (*1*) This Order may be called the Constitution (Application to Jammu and Kashmir) Second Amendment Order, 1952.

(*2*) It shall come into force on the 17th day of November, 1952.

2. At the end of paragraph 3 of the Constitution (Application to Jammu and Kashmir) Order, 1950 (hereinafter referred to as "the principal Order"), there shall be added the words "and to the modification that all references in the said provisions to the Rajpramukh shall be construed as references to the Sadar-i-Riyasat of Jammu and Kashmir".

3. In the Second Schedule to the principal Order,—

(*a*) in the entry in the second column relating to Part XIX, after the figures "365" the words, brackets and figures "and clause (21) of article 366" shall be inserted; and

(*b*) in the entry in the second column relating to Part XXI, for the figures and word "376 and 378" the figures and word "376, 378 and 386" shall be substituted.

[No. F.23(6)/52-C]

NATIONAL ARCHIVES OF INDIA

S.R.O. 1904.—The following Declaration made by the President is notified for general information:—

C.O. 44

DECLARATION UNDER ARTICLE 370(3) OF THE CONSTITUTION

In exercise of the powers conferred by clause (3) of article 370 of the Constitution of India, the President, on the recommendation of the Constituent Assembly of the State of Jammu and Kashmir, is pleased to declare that, as from the 17th day of November, 1952, the said article 370 shall be operative with the modification that for the "*Explanation*" in clause (1) thereof the following *Explanation* is substituted, namely:—

"*Explanation.*—For the purposes of this article, the Government of the State means the person for the time being recognised by the President on the recommendation of the Legislative Assembly of the State as the Sadar-i-Riyasat of Jammu and Kashmir, acting on the advice of the Council of Ministers of the State for the time being in office."

[No. F.23(6)/52-C]

RAJENDRA PRASAD,
President.

K. V. K. SUNDARAM,
Secretary.

PRINTED IN INDIA BY THE MANAGER, GOVT. OF INDIA PRESS, NEW DELHI
AND PUBLISHED BY THE MANAGER OF PUBLICATIONS, DELHI, 1952

NATIONAL ARCHIVES OF INDIA

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Allahabad.
12th November, 1952.

123

My dear Dr. Katju,

I thank you for your letter which I have just received. I am glad to note from it that decisions regarding the points raised by Maharaja Hari Singh have been communicated to him and that the Yuvaraj has agreed to accept the office of Sadar-e-Riyasat. I have received the Prime Minister's letter.

I understand you will be coming to Banaras and we are likely to meet there.

Yours sincerely,

Sd/- Rajendra Prasad.

Dr. K.N. Katju,
Minister for Home Affairs & States,
New Delhi.

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...TARY
...DIA.
2333-C/52.
Date 27/XI/52

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123A

MINISTRY OF STATES

NOTIFICATION

New Delhi, the 18th November 1952.

No.F.1(9)K/52. - It is hereby notified for public information that on the recommendation of the Legislative Assembly of the State of Jammu and Kashmir, the President has recognised Yuvraj Shri Karan Singh as the Sadar-i-Riyasat of that State and that Yuvraj Shri Karan Singh has assumed the said office on the 17th November 1952.

Sd/- C.S. Venkatachar.
Secretary.

Copy to :-

Ministry of - Finance/ Home Affairs/ Defence/ External Affairs/ Education/ Natural Resources & Scientific Research/ Communications/ Health/ Food and Agriculture/ Commerce and Industry/ Law and Minority Affairs/ Irrigation and Power/ Railways/ Transport/ Works, Housing and Supply/ Labour/ Production/ Rehabilitation/ Information and Broadcasting/ Planning Commission/ Finance (Establishment Division)/ Finance (Revenue and Expenditure Division)/ Finance (R. Division)/ Finance (Industry and Commerce Division)/ Finance (Planning Division)/ Finance (Defence)/ Finance (States)/ Finance (Department of Economic Affairs)/ Finance (Delhi State),
Secretary to President/ Planning Commission/ Cabinet Secretariat/ Prime Minister's Secretariat/ Press Information Officer/ Department of Parliamentary Affairs/ Union Public Service Commission/ Accountant General Central Revenues/ Military Secretary to President/ Military Assistant to the Commander-in-Chief/ Comptroller and Auditor General of India/ House of the People/ Council of States,

The Regional Commissioner and Adviser - Saurashtra/ Madhya Bharat,
The Counsellor - Rajasthan/ Patiala & East Punjab States Union,
The State Counsellor, Hyderabad-Deccan,

The Chief Commissioner - Kutch/ Bilaspur/ Bhopal/ Manipur/ Tripura,

The Chief Secretary to the Government of - Assam/ Bombay/ Madhya Pradesh/ Punjab/ Orissa/ Madras/ West Bengal/ Uttar Pradesh/ Bihar/ Hyderabad(Dn)/Mysore/ Jammu & Kashmir/ Saurashtra/ Madhya Bharat/ Rajasthan/ Patiala & East Punjab States Union/ Travancore-Cochin/ Himachal Pradesh/ Vindhya Pradesh/ Delhi.

Ministry of States,
New Delhi-2.
November 26 ,1952.

S.K Ayangar
(S.K. Ayangar)
Assistant Secretary to the Govt. of India.

D/27/11/52

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21st November, 1952.

Dear Sir,

I am directed to acknowledge the receipt of your letter dated 19th November 1952 to the President.

Yours faithfully,

Sent to Secy. Ministry of State vide p. 125 infra

sd/ (Shavax A. Lal.)

Lieutenant-General His Highness Maharaja Sir Hari Singh. Indar Mahindar Bahadur, GCSI., GCIE., GCVO.

19, Nepean Road, Bombay

21/11/52

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125

21st November 1952.

My dear Venkatachar,

The President has asked me to send you the enclosed letter dated 19th November 1952 from Maharaja Hari Singh together with its enclosure, which he received this morning.

The President would be glad if you could make it convenient to come and explain to him how the matter stands. Will 12 noon on Monday, the 24th Novr. suit you ?

Yours sincerely,

Sd. S.A.Lal.

Shri C.S. Venkatachar,
Secretary, Ministry of States.

Issued with Secy.
Com
21.11.52

21/11

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D.O. No. 237-PS/52

126

GOVERNMENT OF INDIA.
MINISTRY OF STATES,
NEW DELHI.

dated the 21st November 1952.

My dear Lal,

I have received your letter dated November 21, with which you enclose Maharaja Hari Singh's letter together with its enclosures addressed to the President. — p.125 ante

2. It is convenient for me to be received by the President on Monday, November 24, at 12 noon.

Yours sincerely,

(C.S.Venkatachar)

Shri Shavax A. Lal,
Secretary to the President,
Rashtrapati Bhawan,
New Delhi

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MINISTRY OF STATES.

As directed by Secretary I place below a tentative draft of a letter to His Highness the Maharaja of Jammu & Kashmir. The schedule to be included in the draft will be a list of properties which has already been agreed upon as the private properties of His Highness.

2. The Secretary to the President also wished to see the papers in which the privy purse of Rs.15 lakhs was fixed in 1949. These papers are placed below. Attention is particularly invited to the following:-

i) Memorandum drawn up as a result of discussion between the Govt. of India, His Highness and the Prime Minister of Jammu & Kashmir covering various points. Paragraph 3 of this memorandum relates to the privy purse. — Flag 'I'

ii) Minutes of discussions held in Delhi on the 15th & 16th May. The last of these minutes contain the decisions about the privy purse. — P.47-49/Cor. F.1(10)-DSI/49. Vol.I (Flag 'G')

iii) Letter from States Ministry addressed to His Highness on the 18th May 1949. — Srl. No.(10) ibid. Flag 'G'

iv) Letter from Sardar Patel to His Highness dated the 9th June 1949. — P.65/Cor ibid Flag 'G'.

Sd/- C.Ganesan.
29.11.52.

Secretary to the President (Shri Shavax A.Lal).
Ministry of States u.o. No.D.5583-K/52 dated 29.11.52.

D. No.776-F.R./52.
2.12.52.

PRESIDENT'S SECRETARIAT.

Under the agreement arrived at with the Maharaja in 1948 and recorded in the minutes at slip 'I', the privy purse of the Maharaja was to be fixed by the Government of India, and it was specifically laid down that in fixing the amount of the privy purse "the Government of India will take into account not

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only the principles which the States Ministry has been applying to fixation of privy purses for Rulers of Indian States in general but also the grave political, military and financial aspect of the State." It cannot be denied that one of the principles which the States Ministry has been applying to fixation of privy purses is that the privy purses should be free of all taxes. Indeed, the privy purses would be worth little if they were not payable free of tax. The privy purse which was fixed for the Maharaja in pursuance of this agreement is, in fact, being paid free of all taxes. The assurance of immunity from taxes now being communicated to the Maharaja in the draft is, therefore merely a repetition of the assurance conveyed in 1948 and does not introduce any new element.

2. The President has seen and approved this note as well as the draft of the reply to the Maharaja.

3. It is assumed that a copy of the letter will be sent to the Government of Jammu and Kashmir for their record.

2.12.1952

Ministry of States.(Shri C.S. Venkatachar)

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(917)

Under the agreement arrived at with the Maharaja in 1948 and recorded in the minutes at slip 'I', the Privy Purse of the Maharaja was to be fixed by the Government of India, and it was specifically laid down that in fixing the amount of the Privy Purse "the Government of India will take into account not only the principles which the States Ministry has been applying to fixation of privy purses for Rulers of Indian States in general but also the grave political, military and financial aspect of the State." It cannot be denied that one of the principles which the States Ministry has been applying to fixation of privy purses is that the privy purses should be free of all taxes. Indeed, the privy purses would be worth little if they were not payable free of tax. The privy purse which was fixed for the Maharaja in pursuance of this agreement is, in fact, being paid free of all taxes. The assurance of immunity from taxes now being ~~conveyed~~ communicated to the Maharaja in the draft is, therefore, merely a repetition of the ~~principle accepted~~ assurance covering in 1948 and does not introduce any new element.

The draft of the reply to the Maharaja appears to be in order.

2.12.1952

President.

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TENTATIVE DRAFT.

To

H.H.the Maharaja of Kashmir
(By name, etc.)

My dear Maharaja Sahib,

Your Highness will recall that the recent developments in Jammu and Kashmir State arising out of the resolution passed by the Constituent Assembly regarding the Headship of the State were discussed between Your Highness and the Government of India. In these discussions Your Highness appreciated that, with the coming into force of an interim Constitution passed by the Assembly creating the office of the Sadar-i-Riyasat, Your Highness'position as the Head of the State will have to be terminated. The Government of India have, in these circumstances, considered the provision to be made for the payment of a privy purse to Your Highness and for the other arrangements to be made for certain matters personal to Your Highness. I am writing to communicate the decisions of the Government of India on these matters.

2. The Government of India have decided that Your Highness will with effect from the 17th November 1952 be entitled to receive annually for your privy purse a sum of Rs.10,00,000 (Rupees ten lakhs) free of all taxes. This amount will be paid in the following manner, that is to say,

(1) Rs.5 lakhs to Your Highness,
(2) Rs.1 lakh to Her Highness Maharani Tara Devi, and
(3) Rs.4 lakhs to Yuvraj Karan Singh.

On the demise of Your Highness and Her Highness the Maharani the payment of the respective amounts allotted to either of you will be continued to the Yuvraj.

3. This amount is intended to cover all the expenses of Your Highness and your family including expenses on account of personal staff, maintenance of

P.S.V. 9A.

NATIONAL ARCHIVES OF INDIA

residences, marriages and other ceremonies, etc. It will be payable in four equal instalments at the beginning of each quarter in advance.

4. In the letter addressed to Your Highness on the 9th June 1949 by Sardar Patel after consultation with the Jammu and Kashmir Government the properties mentioned in the schedule attached to this letter had been accepted as the private properties of Your Highness. The Jammu and Kashmir Government have agreed that these will continue to be Your Highness' private properties. They have also agreed to your occupying free of rent Kashmir House in Bombay for your life time in the same manner as at present.

5. The Government of India have also decided that Your Highness will continue to enjoy exemption from the provisions of the Indian Arms Act to the same extent as at present, and that your motor cars will bear red number plates as at present.

6. The Government of India also agree that Your Highness will continue to enjoy exemption from the payment of sea customs duty as at present.

7. Your Highness has requested that foreign exchange facilities should be given for your journeys abroad. Subject to the exigencies of the foreign exchange position the Government of India will make available to you any reasonable requirements in this direction.

8. The Government of India also agree to guarantee the succession to the titles, dignities, privileges and privy purse according to law and custom in Your Highness' family.

With kind regards,

Yours sincerely,

The Schedule.

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Saturday, the 29th November 1952 ... 10-30 A.M.

Shri C. S. Venkatachar, I.C.S.

Action taken by the Ministry of States in regard to the Memorandum** submitted by Maharaja Hari Singh of Kashmir. (File placed below)

** so flagged.

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सत्यमेव जयते

GOVERNMENT OF INDIA.
MINISTRY OF STATES,
NEW DELHI.

D.O.No.F.5(3)-K/52

dated the 29th December 1952

Forwarded for President's signature
Sd/-
V.P.
15/3/53

My dear Lal,

I enclose for your information a copy each of the following letters addressed to His Highness Maharaja Sir Hari Singh: -

(1) Official letter No.F.5(3)-K/52 dated the 24th December 1952.

(2) Demi-official letter dated the 24th December 1952 from the Minister for States.

Yours sincerely,

V.P. Menon

(Secretary)

Shri Shavax A. Lal,
Secretary to the President,
Rashtrapati Bhawan,
New Delhi

Enclos: Two.

V.P.M. 30/12/52

There has been no change in the official letter, which the President saw in draft form.

V.P.M.

Secy

In view of Dr. Katju's letter to the Maharaja it would not be necessary for the President to write another letter to the Maharaja.

S.P.Lal 31/12

President (on return)

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D.O.No.F.5(3)-K/52.

REGISTERED A.D.

Ministry of States,
NEW DELHI-2.

December 24, 1952.

My dear Maharaja Sahib.

Your Highness will recall that the recent developments in Jammu and Kashmir State arising out of the resolution passed by the Jammu and Kashmir Constituent Assembly regarding the Headship of the State were discussed between Your Highness and the Government of India. In these discussions Your Highness appreciated that, with the coming into force of an interim Constitution passed by the Assembly creating the office of the Sadar-i-Riyasat, Your Highness' position as the Head of the State will have to be terminated. The Government of India have, in these circumstances, considered the provision to be made for the payment of a privy purse to Your Highness and for the other arrangements to be made for certain matters personal to Your Highness. I am writing to communicate the decisions of the Government of India on these matters.

2. The Government of India have decided that Your Highness will with effect from the 17th November 1952 be entitled to receive annually for your privy purse a sum of Rs 10,00,000 (Rupees ten lakhs) free of all taxes. This amount will be paid in the following manner, that is to say,

(1) Rs 5 lakhs to Your Highness,

(2) Rs 1 lakh to Her Highness Maharani Tara Devi, and

(3) Rs 4 lakhs to Yuvraj Karan Singh.

On the demise of Your Highness and Her Highness the Maharani the payment of the respective amounts allotted to either of you will be continued to the Yuvraj.

2/.....

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3. This amount is intended to cover all the expenses of Your Highness and your family including expenses on account of personal staff, maintenance of residences, marriages and other ceremonies, etc. It will be payable in four equal instalments at the beginning of each quarter in advance.

4. In the letter addressed to Your Highness on the 9th June 1949 by Sardar Patel after consultation with the Jammu and Kashmir Government the properties mentioned in the schedule attached to this letter had been accepted as the private properties of Your Highness. The Jammu and Kashmir Government have agreed that these will continue to be Your Highness' private properties. They have also agreed to your occupying free of rent Kashmir House in Bombay for your life time in the same manner as at present.

5. The Government of India have also decided that Your Highness will continue to enjoy exemption from the provisions of the Indian Arms Act to the same extent as at present, and that your motor cars will bear red number plates as at present.

6. The Government of India also agree that Your Highness will continue to enjoy exemption from the payment of sea customs duty as at present.

7. Your Highness has requested that foreign exchange facilities should be given for your journeys abroad. Subject to the exigencies of the foreign exchange position the Government of India will make available to you any reasonable requirements in this direction.

P/.....

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3. The Government of India also agree to guarantee the succession to the titles, dignities, privileges and privy purse according to law and custom in Your Highness' family.

With kind regards,

Yours sincerely,

Sd/-

(C.S.Venkatachar)

Lieutenant General His Highness Maharaja
Sir Hari Singh, Indar Mahinder Bahadur,
G.C.S.I., G.C.I.E., G.C.V.O.,
19 Nepean Road,
BOMBAY.

The Schedule.

(A) Properties at Jammu

Buildings.

1. Amar Mahal
2. Hari Niwas
3. Ranbir Mahal
4. Karan Niwas
5. Staff Houses Nos 1-2A, 2B-3A, 3B-4A, 4B-5A-5B
6. Dairy & Stud Buildings (Nagbani)
7. House Site (Dhounthli Bazar)
8. House Site (Chowk Salathian).

(1 to 4 and connected buildings.)

Lands & Gardens.

1. Hazuri Garden
2. Rajmata's Garden (Satvari)
3. Gadigarh Garden
4. Nagbani Farm
5. Valley Garden & Haveli Begum area

(1 to 5 and connected buildings)

4/.....

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(B) Properties at Srinagar

Buildings

1. Gulab Mahal
2. Hari Mahal
3. Karan Mahal
4. Chashmashai

} and connected buildings.

5. Staff Houses- Cherry Grove, Fair View, Farm House.
6. Works Department's Stores
7. Lake Pavilion
8. 12 Clerks Quarters (Ex-Residency).

Lands and Gardens.

1. Gulabsingh Bagh
2. Ranbirsingh Bagh
3. Pratapsingh Bagh
4. Harisingh Bagh
5. Amarsingh Bagh
6. Ramsingh Bagh
7. Karansingh Bagh
8. Maharaja Bagh

} and connected buildings

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New Delhi
dated December 24, 1952.

My dear Maharaja Sahib,

I regret the delay in writing to you. I have been away from Delhi on tour to different parts of India, and then Parliament was in session and that, too, used to take a lot of time. Anyway, we have been able to go through the whole of the Kashmir problem in so far as it related to you and your house. We gave the most anxious consideration to all the points raised by you both in your discussions with Venkatachar and also in your letter. The conclusions, I understan he has already communicated to you in an official communication. I feel confident that the decisions arrived at will appeal to you as the most reasonable, and under the circumstances, as I wrote to you on the last occasion, we are in the midst of a continuously changing and fluid situation. In Kashmir itself great changes have taken place and, as would appear from the discussions in the U.N.O. the problem still continues to be a difficult one. Under the circumstances I do hope that you will, on your side, extend to the Yuvraj your blessings, so that he may shoulder the heavy responsibilities, which have fallen upon him, successfully. If there is any other matter, you will please write to me and I shall always be at your disposal. I think it is hardly necessary to add that there can never possibly be any question of harassment of Your Highness by anybody and you, please, do not have any apprehension on that score of any sort or description.

I am going tomorrow morning to Nagpur and therefore must rest content with this brief letter for the time being.

With kindest regards,

Yours very sincerely,

Sd/- K.N.Katju

Lt. General His Highness Maharaja
Sir Hari Singh Indar Mahindar Bahadur, GCSI., GCIE.,GCV
Maharaja of Jammu and Kashmir,
Napean Sea Road,
Bombay.

NATIONAL ARCHIVES OF INDIA

सत्यमेव जयते

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SECRET & PERSONAL.

Copy material for R.P. RPS 16/8/62.

New Delhi,
May 25, 1953.

My dear Mr. President,

I have just returned from a two-day visit to Kashmir. I am glad I went there because I could judge of the internal situation existing in Kashmir myself. I regret to say that this internal situation is not at all a good one. There are a number of internal conflicts even in the ranks of the National Conference and the Government. I have dealt with the matter for the present as best I could, and I hope that no serious development will take place during my absence.

I am keeping Maulana Azad fully informed. The only three persons who had an intimate touch with developments during the last several years in Kashmir were Maulana Azad, Shri Gopalaswami Ayyangar and myself. Unfortunately Shri Gopalaswami is no more.

This letter is just to keep you informed. I am not going into details at the moment as they are all complicated.

Yours sincerely,

Jawaharlal Nehru

Dr. Rajendra Prasad,
President.

Perhaps the President may like to discuss this with Maulana Sahib on return from Pakistan.

SPN 26/5

President (Camp) at Srinagar

NATIONAL ARCHIVES OF INDIA

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Copy made for R.P. 16/8/62

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PERSONAL

New Delhi,
May 27, 1953.

My dear Rajendra Babu,

I am very grateful to you for your telegram of good wishes. I am leaving tomorrow morning. While I am glad that I am going, because any change from the heavy daily routine of Delhi is welcome, I confess I am not happy at being away for a whole month. However, I do not propose to worry because you will be here and most of my colleagues will also be here.

My present programme is to return on the 26th June. But there is a possibility of my delaying my return by another three days. On the advice of Dr B.C. Roy I am thinking of going to Zurich for a couple of days to consult some doctors and have a check-up. There is nothing wrong with me, but Dr Roy thinks this desirable and I have partially consented.

I have written to you briefly about the situation in Kashmir which was not at all good. My visit, however, at this critical juncture has had some good result and I do not think there is likely to be any crisis in the near future.

Nepal is giving me a head-ache and I do not at all like the look of things there.

I hope you are keeping well,

With all good wishes,

Yours Sincerely,
Jawaharlal Nehru

Dr Rajendra Prasad,
President,
Camp: Pachmarhi.

NATIONAL ARCHIVES OF INDIA